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10 Attorneys for **PersonalWeb Technologies, LLC**

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

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

CASE NO.: 5:18-md-02834-BLF

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

Case No.: 5:18-cv-00767-BLF
Case No.: 5:18-cv-05619-BLF

17 Plaintiffs,

18 v.

19 PERSONALWEB TECHNOLOGIES, LLC and LEVEL 3 COMMUNICATIONS, LLC,
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**DECLARATION OF VIVIANA BOERO
 HEDRICK IN SUPPORT OF
 AMAZON.COM, INC. AND AMAZON
 WEB SERVICES, INC. AND TWITCH
 INTERACTIVE, INC.'S
 ADMINISTRATIVE MOTION TO FILE
 UNDER SEAL (DKT 540)**

20 Defendants.

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

24 v.

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

26 Counterdefendants.

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1 PERSONALWEB TECHNOLOGIES, LLC, a
2 Texas limited liability company, and
3 LEVEL 3 COMMUNICATIONS, LLC, a
4 Delaware limited liability company
5 Plaintiffs,
6 v.
7 TWITCH INTERACTIVE, INC. a Delaware
8 corporation,
9 Defendant.
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DECLARATION OF VIVIANA BOERO HEDRICK

I, Viviana Boero Hedrick, declare as follows:

1. I am over the age of 18 and competent to make this declaration. I am an attorney duly licensed to practice law in the state of California and Of Counsel with Stubbs Alderton & Markiles, LLP, counsel for PersonalWeb Technologies, LLC (“PersonalWeb”) in the above-captioned actions. The facts herein are based upon personal knowledge, and if called upon to do so, I could, and would testify to their truth under oath.

2. I submit this declaration in support of the Administrative Motion to File Under Seal (Case No. 18-md-02834-BLF, Dkt. 540; Case No. 18-cv-00767-BLF, Dkt. 154; and Case No. 18-cv-05619-BLF, Dkt. 66) (“Administrative Motion”) filed by Amazon.com, Inc. and Amazon Web Services, Inc. (“Amazon”) and Twitch Interactive, Inc. (“Twitch”). The Administrative Motion was filed in support of Amazon’s Motion for Summary Judgment of Noninfringement (“Amazon MSJ”) (Case No. 18-md-02834-BLF, Dkt. 541; Case No. 18-cv-00767-BLF, Dkt. 155) and Twitch’s Motion for Summary Judgment of Noninfringement and to Exclude the Testimony of Erik de la Iglesia (“Twitch MSJ”) (Case No. 18-md-02834-BLF, Dkt. 542; Case No. 18-cv-05619-BLF, Dkt. 67).

3. Among other documents and information, the Administrative Motion seeks an order sealing the following document (“Requested Sealed Material”): Excerpts from the deposition transcript of Ronald Lachman (“Lachman Deposition”) from *PersonalWeb Techs., LLC v. Microsoft Corp.*, No. 6:12-cv-00663-LED (E.D. Tex.), attached as Exhibit 7 to the Declaration of Saina S. Shamilov in Support of the Amazon MSJ and Twitch MSJ (“Shamilov Declaration”).

4. The Requested Sealed Material comprises information designated as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” pursuant to the Stipulated Amended Protective Order (Case No. 18-md-02834-BLF, Dkt. 427).

5. The excerpts of the Lachman Deposition attached as Exhibit 7 to the Shamilov Declaration are designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” pursuant to the Stipulated Amended Protective Order. This exhibit contains excerpts of testimony from the Lachman Deposition regarding non-public aspects of the business negotiations between Kinetech, Inc.

1 and Digital Island, Inc. Additionally, these deposition excerpts were previously designated as
2 Confidential in the prior action, *PersonalWeb Techs., LLC v. Microsoft Corp.*, No. 6:12-cv-00663-
3 LED (E.D. Tex.).

4 6. In the Ninth Circuit, a district court may override the presumption of public access to
5 judicial documents where “good cause” is shown. *See Phillips ex rel. Estates of Byrd v. General*
6 *Motors Corp.*, 307 F.3d 1206, 1210 (9th Cir. 2002). “For good cause to exist, the party seeking
7 protection bears the burden of showing specific prejudice or harm will result if no protective order is
8 granted.” *Id.* at 1211 (internal citations omitted). A party seeking to file documents under seal in
9 connection with a dispositive motion must establish compelling reasons for doing so to rebut the
10 presumption against public access. *See Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1136
11 (9th Cir. 2003).

12 7. The confidential excerpted deposition testimony from the Lachman Deposition meets
13 the *Foltz* standard. *See Phoenix Technologies Ltd. v. VMware, Inc.*, No. 15-cv-01414-HSG, 2018 WL
14 1169188, at *2 (N.D. Cal. Feb. 14, 2018) (good cause exists to protect business information that might
15 harm a litigant’s competitive standing if disclosed, and where the redaction is “sufficiently narrowly
16 tailored” to only seal portions of the exhibit that might put sensitive business information at risk).
17 Disclosure of non-public details regarding the negotiation and business deadlines between Digital
18 Island and Kinetech, would put PersonalWeb at a competitive disadvantage.

19 8. In light of the foregoing, there is good cause and a compelling interest in maintaining
20 the confidentiality of the Requested Sealed Material described above.

21 9. Accordingly, PersonalWeb requests that the Court maintain under seal Exhibit 7 to the
22 Shamilov Declaration.

23 I declare under penalty of perjury under the laws of the United States that the foregoing is
24 true and correct.

25 Executed this 15th day of November, 2019 in Los Angeles, California.

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27 /s/Viviana Boero Hedrick
Viviana Boero Hedrick

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