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Attorneys for PersonalWeb Technologies, LLC

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

IN RE PERSONAL WEB TECHNOLOGIES, LLC, ET AL., PATENT LITIGATION	**CASE NO.: 5:18-md-02834-BLF**
AMAZON.COM, INC. and AMAZON WEB SERVICES, INC., Plaintiffs, v. PERSONALWEB TECHNOLOGIES, LLC, and LEVEL 3 COMMUNICATIONS, LLC, Defendants.	**Case No.: 5:18-cv-00767-BLF** **DECLARATION OF ERIK DE LA IGLESIA IN SUPPORT OF PERSONALWEB TECHNOLOGIES, LLC's OPPOSITION TO AMAZON.COM, INC., AMAZON WEB SERVICES, INC., AND TWITCH INTERACTIVE, INC.'S MOTION FOR ATTORNEY FEES AND COSTS**
PERSONALWEB TECHNOLOGIES, LLC and LEVEL 3 COMMUNICATIONS, LLC, Counterclaimants, v. AMAZON.COM, INC. and AMAZON WEB SERVICES, INC., Counterdefendants.	

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.

I, Erik de la Iglesia, declare as follows:

1. I am over the age of eighteen (18) and make this declaration of my own personal knowledge, under penalty of perjury. I was retained as an independent expert witness by the law firm of Stubbs Alderton & Markiles, LLP on behalf of PersonalWeb Technologies, LLC ("PersonalWeb") to opine as a technical expert on (i) the technology of U.S. Patent No. 6,928,442 ("'442 Patent"), U.S. Patent No. 7,802,310 ("'310 Patent"), and U.S. Patent No. 8,099,420 ("'420 Patent") (collectively, "the asserted True Name Patents"), including related industry standards such as Hypertext Transfer Protocol ("HTTP"), and (ii) statements made about the technology of the asserted True Name Patents in lawsuits including *In re PersonalWeb Technologies, LLC, et al., Patent Litigation*, Case No.: 5:18-md-02834-BLF (Northern District of California), *Amazon.com, Inc. and Amazon Web Services, Inc. v. PersonalWeb Technologies, LLC and Level 3 Communications, LLC*, Case No. 5:18-cv-00767-BLF (Northern District of California), and *PersonalWeb Technologies, LLC v. Twitch Interactive, Inc.*, Case No. 5:18-cv-05619-BLF (Northern District of California). Amazon.com, Inc. and Amazon Web Services, Inc. shall hereinafter be collectively referred to as "Amazon" and Twitch Interactive, Inc. shall hereinafter be referred to as "Twitch". I make this declaration in support of PersonalWeb's Opposition to Amazon and Twitch's Motion for Attorney Fees and Costs.

2. I received a Bachelor of Science degree in Electrical Engineering from the University of Florida, and a Master of Science degree in Electrical Engineering from Stanford University where I was a National Science Foundation Graduate Research Fellow. My industry work, including designing an HTTP processing engine and a network security analyzer for HTTP and other protocols, qualifies me as a person of ordinary skill in the art in HTTP analysis for distributed computing systems during the timeframes relevant to this matter. A summary of my academic and work experience can be found in my curriculum vitae filed previously in this case at Dkt. 336-1, pp. 5-7.

3. I have reviewed Amazon and Twitch's Motion for Attorney Fees and Costs filed in this case at Dkt. 593. Therein, Amazon and Twitch assert that "PersonalWeb accused basic aspects

of the HTTP protocol—the publicly available standard that governs how web browsers and web servers communicate" (Br. 3:2-4) and that PersonalWeb "accused basic HTTP operations" (Br. 10:5). Amazon and Twitch never define what they mean by "basic" and they ambiguously refer to HTTP without specifying whether they mean HTTP/1.0 or HTTP/1.1. But it seems from context that by "basic" they are referring to things that a browser and/or server *must* do in order to comply with HTTP/1.1, which is how I will use "basic" herein. To the extent Amazon and Twitch are implying that, in general, no patent could ever cover "basic" HTTP operations (however the word "basic" may be construed in that context), such an implication would be incorrect. But that does not matter because, for all the reasons I discuss below, PersonalWeb's infringement theory requires a particular implementation of HTTP/1.1 that is used specifically to implement one form of cache control, which is not required by the HTTP/1.1 specification itself, meaning it is nothing the browser and/or server *must* do. For these reasons, it is not merely "basic" HTTP/1.1 that was alleged to infringe.

4. The accused method requires the use of content-based identifiers as Entity Tags (ETags) and the use of a "max-age" directive in a cache-control header. The True Name Patents' priority date of April 11, 1995 precedes the introduction of ETags and max-age directives in the HTTP/1.1 specification, which did not exist until January 1997. Neither the use of ETags at all, the use of content-based identifiers as ETags, nor the use of max-age directives in cache-control headers are required by the HTTP/1.1 specification. ETags *do not* exist in the HTTP/1.0 specification. Using content-based identifiers as ETags is an implementation choice of a website operator and any suggestion that it is a "basic aspects of HTTP protocol" is incorrect.

5. The HTTP/1.1 specification is described in the original Request for Comments (RFC) document, RFC 2068 issued in January 1997. (https://tools.ietf.org/html/rfc2068) Suggestions for improvements to the HTTP/1.1 specification were made in RFC 2616 issued in June 1999. (https://tools.ietf.org/html/rfc2616) The HTTP/1.1 specification of RFC 2068 is the first HTTP specification to include ETag headers and does so in sections 3.11, 13.3.2 and 14.20. RFC 2068 *does not* require the use of ETag headers at all, let alone the use of content-based

identifiers as ETags. Nor does the HTTP/1.1 specification require the use of a max-age header value even where the operator chooses to use the ETag header. The max-age value is optionally used when the content-provider wishes to specify how long the content-recipient may reuse cached content before Conditional GET must be used to revalidate the cached content. HTTP/1.0, the previous HTTP specification, was first described in March 1995 and formalized in RFC 1945 issued in May 1996. HTTP/1.0 does not describe the ETag header field at all.

6. ETags, let alone using content-based identifiers as ETag values, are not a required feature of the HTTP/1.1 specification. Therefore, it would not be a correct assertion (or even implication) that the True Name claims are infringed merely by following methods required by the HTTP/1.1 specification. Specifically, the True Name patents require that unique data items have unique True Name and that those names are based, at least in part, on the contents of those data items. HTTP/1.1 places no such requirement on ETags. Even though strong ETags in HTTP/1.1 need to be unique for a particular resource (*e.g.*, a URL), they do not have to be content-based. In fact, as discussed below, the examples of using ETags in the HTTP/1.1 specification teach away from using content-based values for ETags as alleged in PersonalWeb's infringement contentions.

7. HTTP/1.1 allows ETags, even strong ETags, to be reused for different content, *i.e.*, they need not be content-based. Section 3.11 of the RFC 2068 document (the earliest HTTP/1.1 specification) describes ETags as "opaque quoted strings" that may be either weak or strong (RFC 2068 @ 29). Although a strong ETag "may be shared by two entities of a resource only if they are equivalent by octet equality," the specification further clarifies that "[a] given entity tag value may be used for entities obtained by requests on different URIs *without implying anything about the equivalence of those entities*." (RFC 2068 @ 29 (emphasis added)) This language is maintained in the RFC 2616 update to the HTTP/1.1 specification. In other words, HTTP/1.1 allows an ETag value to be reused for data items being requested at different URIs, even if the data items are different. This violates the True Name Patents' teaching that different data items have different True Name (content-based identifiers).

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