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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,
 15 LLC, ET AL., PATENT LITIGATION

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

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

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

18 Plaintiffs,

19 v.

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

22 Defendants.

**DECLARATION OF WESLEY W.
 MONROE 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**

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

25 Counterclaimants,

26 v.

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

Counterdefendants.

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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.

1 I, Wesley W. Monroe, declare as follows:

2 1. I am a member of the bar of the State of California and am admitted to practice
3 before the United States District Court for the Northern District of California as well as other
4 numerous federal courts, and am a registered patent attorney. I am Of Counsel with Stubbs,
5 Alderton & Markiles, LLP, counsel for PersonalWeb Technologies, LLC (“PersonalWeb”). The
6 facts herein are, unless otherwise stated, based upon personal knowledge, and if called upon to do
7 so, I could, and would testify to their truth under oath. I submit this declaration in support of
8 PersonalWeb’s Opposition to Motion of Amazon Web Services, Inc., Amazon.com, Inc. and
9 Twitch Interactive, Inc. (collectively, “Amazon”) for Attorney Fees and Costs.

10 2. I received a Bachelor of Science degree in mathematics and computer science from
11 the University of California, Los Angeles in 1987 and a juris doctor degree from Loyola law School
12 in 1990.

13 3. In addition to practicing patent law since 1990, I was the CEO of a startup company
14 in the field of advertising analytics using a number of internet technologies from 2015 to 2017. In
15 addition to being the CEO, I also designed, built, and wrote all the computer code for a prototype
16 device using Python programming language. During the development of this prototype device, I
17 became considerably skilled in programming in Python as well as details of the operation of HTTP
18 in real-time web traffic.

19 4. I began working on PersonalWeb matters in December 2017. In connection with
20 the work I performed for PersonalWeb when my work began, and prior to the time the first set of
21 lawsuits were filed in January 2018, I became aware that Dr. Russ, an expert in the field of
22 computer networking and content delivery over the internet and other networks, and PatBak, a
23 patent engineering consulting company retained by PersonalWeb, respectively, conducted
24 heuristic analysis to determine whether a website used RoR, S3, or both. I am familiar with this
25 heuristic analysis through studying descriptions of it and studying the results of the analysis. This
26 approach looked at markers in webpages archived on archive.org during the relevant time period
27 that are indicative, but not conclusive, of the use of RoR or S3 in serving that webpage at the time
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1 it was archived. This heuristic analysis used industry accepted techniques to determine the
2 likelihood that a particular website used RoR and/or served webpage assets with Amazon S3.

3 5. On or about February 23, 2018, our office received a letter from Ryan M. Hubbard
4 of Kirkland & Ellis LLP regarding their client, Lithium Technologies (“Lithium”), which was one
5 of the defendants PersonalWeb sued in January 2018. In this letter, Mr. Hubbard asserted that
6 Lithium’s website “was not developed with and has not used RoR architecture from 2012 to 2016.”
7 A true and correct copy of this letter is attached as Exhibit 4 to the declaration of Michael A.
8 Sherman, filed concurrently herewith.

9 6. After receipt of this letter, my colleague Sandy Seth reached out to Dr. Russ to
10 perform a re-analysis and verify our understanding of infringement by Lithium. Dr. Russ informed
11 me that he had re-analyzed the archived webpages he had for Lithium. He also informed me that
12 he had now discovered details in Uniform Resource Identifiers (“URIs”) that he had previously
13 concluded included fingerprints that convinced him that RoR was not used to create those URIs.
14 Dr. Russ also informed me that he discovered that some of the markers used previously in the
15 heuristics for RoR were not as accurate as previously understood. I then independently analyzed
16 the heuristics for RoR and came to the same conclusion as Dr. Russ.

17 7. On March 6, 2018, based on both Dr. Russ’s reanalysis of the markers and
18 heuristics for identifying the use of RoR in the archived files he had regarding Lithium, and my
19 independent analysis regarding the use of RoR by Lithium, PersonalWeb dismissed its complaint
20 against Lithium without prejudice.

21 8. Through March and April 2018, I reanalyzed the markers and heuristics for
22 identifying the use of RoR for all the defendants sued in January 2018. This reanalysis discovered
23 five additional defendants that had suspect markers for use of RoR: Hootsuite, Optimizely, Ziff
24 Davis, Popsugar.com, and Stumbleupon. As a result of my reanalysis, PersonalWeb subsequently
25 dismissed each of these defendants without prejudice on March 13, 2018, March 12, 2018, April
26 5, 2018, April 9, 2018, April 25, 2018, respectively.

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1 9. In April 2018, I began to investigate whether I could find a way to identify evidence
2 in the archived website files that shows which URIs are in a specific format that we believed was
3 only produced by the RoR architecture (the format was a traditional filename, such as “puppy.jpg”
4 with an underscore character followed by a 32 character string made of hexadecimal characters
5 (numerical digits and letters “a” to “f”) inserted before the period in the filename). To accomplish
6 this, I directed PatBak to download HTTP archive files (“HAR files”) for webpages archived
7 during the relevant time period for all the defendants. A HAR file contains all the HTTP requests
8 and responses that passed between a browser and a web server in the course of downloading a
9 single webpage. This information is stored in a commonly used database format known as
10 JavaScript Object Notation (“JSON”).

11 10. In April 2018, based on my computer science programming expertise and
12 experience using the programming language, Python, I began writing a computer program using
13 Python that systematically drilled deeply into the information in a HAR file and determined
14 whether URIs used in HTTP/1.1 requests to load a webpage were in the specific RoR format.

15 11. Continuing in April 2018 and in the following months, I continued to add
16 functionality to the Python program. One such functionality was that, with respect to some
17 archived webpage files that had URIs containing text strings that had the appearance of being a
18 content-based identifier such as URIs in the specific RoR format (*i.e.*, there appeared to be
19 fingerprints in the filenames), the Python program was able to definitively show that the text string
20 in the URI was, in fact, a content-based identifier for the file identified by the URI. This particular
21 technique was able to determine if the suspect text strings in URIs created by RoR contained an
22 actual content-based identifier for the file identified by the URI, as opposed to a text string the
23 program could not verify was a content-based identifier for the file identified by the URI. However,
24 this technique also resulted in the Python program identifying websites of some defendants that
25 did not show signs of using RoR, but nevertheless had URIs that contained text strings that were
26 definitively shown to use content-based identifiers of the files identified by the URIs (fingerprints
27 in filenames). In other words, what this Python program analysis revealed was that despite the
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