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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: PERSONALWEB TECHNOLOGIES,  
LLC ET AL., PATENT LITIGATION,

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

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 Plaintiffs,

25 v.

26 TWITCH INTERACTIVE, INC.,

27 Defendant.  
28

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

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

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

**SUPPLEMENTAL DECLARATION OF  
TODD R. GREGORIAN PURSUANT TO  
COURT ORDER [DKT. 647]**

1 I, Todd R. Gregorian, declare as follows:

2 1. I am counsel to Amazon.com, Inc., Amazon Web Services, Inc. (collectively,  
3 “Amazon”), and Twitch Interactive, Inc. (“Twitch”) in this matter. I submit this declaration in  
4 response to the Court’s Order Requesting Supplemental Declaration (Dkt. 647). I have personal  
5 knowledge of the facts set forth herein.

6 2. The original fee motion included effective rate and fee category information based  
7 on discounts received by the clients, but before applying a final discount to the requested total.  
8 This was done to simplify the calculations associated with applying the final discount to years of  
9 invoices, and because Amazon and Twitch (collectively, “Amazon”) believed the rates and fees  
10 were reasonable even before applying the final discount. The Court’s fee order notes that this  
11 caused some confusion. (*See* Dkt. 648 at 10-12.) Accordingly, the effective rate and fees  
12 subcategory information below includes all discounts, with the exception that time written down  
13 and not invoiced to the client (*see* paragraph 8) was not included in the calculation of the effective  
14 rates.

15 **Effective Rates for the Supplemental Fee Request**

16 3. Amazon provides below a chart of effective rates for the timekeepers who billed to  
17 this matter from February 2020 through February 2021. (*See* Dkt. 648 at 26; Dkt. 592-1 at 5-6.)  
18 The background information for these timekeepers is further detailed in my declaration in support  
19 of Amazon’s motion for fees. (*See* Dkt. 592-1 at 1-5.)

20 4. The effective rates for time billed between February 2020 and February 2021 reflect  
21 rate increases by Fenwick & West since the matter began in January 2018, owing both to changes  
22 in the market generally and annual increases based on the additional experience of each timekeeper.  
23 Because the current request includes no time entries from 2018 or 2019, for example, the effective  
24 rates are necessarily higher than those at issue in the original fee motion. The effective rates the  
25 Court approved for the January 2018-January 2020 period are included for comparison.

26 5. The 2020-2021 effective rates are also in line with the most recent survey published  
27 by AIPLA, which discloses average billing rates for 2018—*i.e.*, the rates are reasonable even before  
28 accounting for inflation and yearly rate increases since then. (*See* 592-1 at 8-9) (citing 592-4 at I-

29 (showing that, in 2018, the average hourly billing rate for partners in the third quartile was \$826, and the rate for the 90th percentile was \$1,023); I-42 (showing the range of general private firm associate billing rates based on intellectual property law experience, which encompasses Fenwick associate billing rates for 2020-2021)); *see also A.D. v. State of California Highway Patrol*, 2013 WL 619957 (N.D. Cal. Nov. 27, 2013) (finding that rate increases over the four years the case was pending were reasonable, holding: “the question is not whether the percentage increase from 2009 to 2013 is too great, but rather whether the 2013 rates sought are reasonable and within the prevailing market rates); *Coles v. City of Oakland*, No. C03-2961 TEH, 2007 WL 39304, at \*7 (N.D. Cal. Jan. 4, 2007) (finding claimed hourly rate increase over four years to be reasonable and consistent with that of other local firms, and noting that rates may be influenced by inflation, additional years of experiences, and other changes in the legal market.).

Billing Attorney	Hours Billed on Matter	Effective Rate	Approved Rate (2018-2020)	Years experience (2021)
J. David Hadden Partner	94.2	\$876.44	\$905.95	26 years
Saina Shamilov Partner	14.8	\$900.55	\$748.60	19 years
Melanie Mayer Partner	52.6	\$870.99	\$699.82	16 years
Todd Gregorian Partner <sup>1</sup>	249.4	\$761.93	\$648.27	16 years
Ravi Ranganath Partner <sup>2</sup>	50.8	\$703.02	\$659.92	10 years
Allen Wang Associate	8.8	\$713.80	\$659.85	10 years
Elizabeth Hagan Associate	33.9	\$705.50	\$577.55	8 years
Shannon Turner Associate	1.6	\$705.50	\$618.28	6 years
Chieh Tung Associate	313.8	\$539.43	\$406.85	4 years

<sup>1</sup> Mr. Gregorian became a partner effective 1/1/2020. (*See* Dkt. 592-1 at 2).

<sup>2</sup> Mr. Ranganath became a partner effective 1/1/2021

Crystal Nwaneri Associate	7.6	\$543.65	\$430.06	4 years
Thomas Fox Associate	36.2	\$481.05	\$370.20	3 years
Patrick Doyle Associate	56.5	\$373.50	\$282.20	4 years
Robert Winant Paralegal	139.1	\$360.29	\$342.16	29 years
Lawrence Gallwas Paralegal	22.3	\$378.12	\$344.74	16 years

### Monthly Invoices and Explanation of Discounts

6. **Exhibit A** is a copy of all monthly invoices to Amazon for work performed on this matter from February 2020 through February 2021, reflecting the work of each timekeeper at Fenwick who billed to this matter during that time period. The invoices for January and February 2021 are draft invoices. The time entries and total amounts billed, however, accurately reflect the amount Fenwick expects to bill to the client.

7. Fenwick has made the following redactions from the invoices: (1) descriptions of the work billed that reflect attorney-client privileged and/or work product information; (2) bank account information required for payment of fees; (3) non-taxable costs that Amazon is not seeking as part of its request. Categories (1) and (2) are redacted in black; category (3) is redacted in blue.

8. These monthly invoices reflect pre-invoice discounts for the clients, as well as a 17% discount that Amazon receives on its monthly invoices for this matter. The 17% discount is part of the first discount which occurs at the time of billing, and reflects the fees actually incurred by and billed to the client. On the February 2020 through December 2020 invoices, the 17% discount is applied to the total invoiced amount. For the January and February 2021 invoices, the 17% discount is built into the blended rate for each timekeeper. The second, “final discount” described in the original motion (*see* Dkt. 646-1 ¶ 17) was specific to making certain that the request would not exceed the amount that the clients ultimately paid considering other potential pending discounts or credits. Here, the time worked for the months of June, September, and December 2020, totaling 256.2 hours and \$160,511.63 in fees, was already written down and the client was

1 not invoiced for them, and there were no other pending discounts or credits. Accordingly,  
2 Amazon's supplemental request concerns only fees that it incurred after all discounts.

3 9. Amazon requests supplemental fees for only the timekeepers identified in its  
4 original motion that billed to this matter between February 2020 and February 2021. *See* Dkt. 592-  
5 1 ¶ 17. Fees associated with additional associates and staff are excluded. All told, Amazon has  
6 excluded a total of 11 timekeepers billing 119.2 hours and \$39,834.61 of work. This is a reduction  
7 of fees incurred and invoiced (*i.e.*, it does not include any of the June, September, or December  
8 2020 time that was written down).

9 10. Inclusive of applicable discounts, and with the above exclusions, Amazon incurred  
10 \$698,708.28 in fees for Fenwick's work between February and December 2020.

#### 11 **Chart of Major Tasks and Associated Fees Incurred**

12 11. A chart of each attorney's time for each category of tasks performed in this case  
13 during the February 2020 through February 2021 time period is attached as **Exhibit B**. The Court  
14 asked specifically for documentation as to Amazon's incurred fees relating to the fees motion. (Dkt.  
15 647.) Amazon has included documentation and respectfully requests reimbursement of all fees it  
16 incurred in this case during this period. Amazon has segregated fee motion time from the other  
17 categories below in the event that the Court is inclined to award only those fees. A summary of  
18 each category is provided below.

19 a. **"Summary Judgment on Non-Infringement"** includes additional work  
20 performed in relation to the motions for summary judgment for non-infringement. Amazon is not  
21 seeking any of its supplemental fees associated with this category, a total of 7.7 hours and  
22 \$4,460.42.

23 b. **"Attorney Fee Motion"** includes work performed to support Amazon's  
24 motion for attorney fees and costs. This includes research and briefing; reviewing all time entries  
25 billed to this matter and creating a script to perform calculations related to compiling the request.  
26 The fee motion was heavily litigated, resulting in somewhat higher than usual fees. The Court may  
27 recall that PersonalWeb negotiated a schedule for the fee motion but then requested the Court deny  
28 or defer ruling on it, a request that involved briefing and a case management conference.

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