

NOTE: This disposition is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

IN RE: PERSONALWEB TECHNOLOGIES LLC,

**AMAZON.COM, INC., AMAZON WEB SERVICES,
INC.,**
Plaintiffs-Appellees

v.

PERSONALWEB TECHNOLOGIES LLC,
Defendant-Appellant

LEVEL 3 COMMUNICATIONS, LLC,
Defendant

PERSONALWEB TECHNOLOGIES LLC,
Plaintiff-Appellant

LEVEL 3 COMMUNICATIONS, LLC,
Plaintiff

v.

TWITCH INTERACTIVE, INC.,
Defendant-Appellee

2020-1566, 2020-1568, 2020-1569

Appeals from the United States District Court for the Northern District of California in Nos. 5:18-cv-00767-BLF, 5:18-cv-05619-BLF, 5:18-md-02834-BLF, Judge Beth Labson Freeman.

Decided: August 12, 2021

STEPHEN UNDERWOOD, Glaser Weil Fink Howard Avchen & Shapiro LLP, Los Angeles, CA, argued for PersonalWeb Technologies LLC. Also represented by LAWRENCE MILTON HADLEY; WESLEY WARREN MONROE, Stubbs Alderton & Markiles LLP, Sherman Oaks, CA.

J. DAVID HADDEN, Fenwick & West LLP, Mountain View, CA, argued for Amazon.com, Inc., Amazon Web Services, Inc., Twitch Interactive, Inc. Also represented by THOMAS FOX, RAVI RAGAVENDRA RANGANATH, SAINA S. SHAMILOV; TODD RICHARD GREGORIAN, San Francisco, CA.

Before LOURIE, PROST*, and REYNA, *Circuit Judges*.

LOURIE, *Circuit Judge*.

PersonalWeb Technologies LLC (“PersonalWeb”) appeals from a decision of the District Court for the Northern District of California granting summary judgment of non-infringement in favor of Amazon.com, Inc., Amazon Web Services, Inc., and Twitch Interactive, Inc. (collectively, “Amazon”). See *In re PersonalWeb Techs., LLC*, No. 18-md-02834, 2020 WL 6821074 (N.D. Cal. Feb. 3, 2020)

* Circuit Judge Sharon Prost vacated the position of Chief Judge on May 21, 2021.

(“*Summary Judgment Decision*”). For the reasons described below, we *affirm*.

BACKGROUND

This is the second appeal in this case involving a multidistrict litigation consolidating cases that PersonalWeb brought against more than eighty Amazon customers. Because we previously discussed the background of the technology at issue and the history of the case, *see In re PersonalWeb Techs. LLC*, 961 F.3d 1365 (Fed. Cir. 2020), we provide only the following brief summary.

In January 2018, PersonalWeb filed a series of lawsuits asserting that Amazon customers infringe five patents that share a common specification and claim priority from the same abandoned patent application, which was filed on April 11, 1995. *See id.* at 1369. The patents are generally directed to uses of what the inventors termed “True Names” for data items. According to the patents, a “True Name” is a “‘substantially unique’ identifier for each data item that depend[s] only on the content of the data itself,” as opposed to “other purportedly less reliable means of identifying data items, such as user-provided file names.” *Id.* (citing U.S. Patent 6,928,442).

In the current appeal, only three claims are at issue: claim 20 of U.S. Patent 7,802,310 (the “310 patent”); and claims 10–11 of U.S. Patent 6,928,442 (the “442 patent”). Claim 20 of the ’310 patent recites:

20. A computer-implemented method operable in a system which includes a plurality of computers, the method comprising:
controlling distribution of content from a first computer to at least one other computer, in response to a request obtained by a first device in the system from a second device in the system, the first device comprising hardware including at least one processor,

the request including at least a content-dependent name of a particular data item, the content-dependent name being based at least in part on a function of at least some of the data comprising the particular data item, wherein the function comprises a message digest function or a hash function, and wherein two identical data items will have the same content-dependent name, based at least in part on said content-dependent name of said particular data item, the first device (A) permitting the content to be provided to or accessed by the at least one other computer if it is not determined that the content is ***unauthorized or unlicensed***, otherwise, (B) if it is determined that the content is unauthorized or unlicensed, not permitting the content to be provided to or accessed by the at least one other computer.

'310 patent col. 39 ll. 8–31 (emphasis added). Claims 10 and 11 of the '442 patent recite:

10. A method, in a system in which a plurality of files are distributed across a plurality of computers, the method comprising:
 - obtaining a name for a data file, the name being based at least in part on a given function of the data, wherein the data used by the function comprises the contents of the particular file;
 - determining, using at least the name, whether a copy of the data file is present on at least one of said computers; and
 - determining whether a copy of the data file that is present on a at least one of said computers ***is an unauthorized copy or an unlicensed copy*** of the data file.

11. A method as in claim 10 further comprising:
allowing the file to be provided from one of the
computers having an ***authorized or li-
censed*** copy of the file.

'442 patent col. 41 ll. 13–27 (emphases added).

Broadly speaking, PersonalWeb's infringement allegations targeted Amazon's S3 web host servers and Amazon's CloudFront service. Amazon intervened in the actions against its customers and filed a declaratory judgment action against PersonalWeb. *See PersonalWeb*, 961 F.3d at 1372. The Judicial Panel on Multidistrict Litigation consolidated the cases in the United States District Court for the Northern District of California for pretrial proceedings. *Id.* The court decided to first proceed with Amazon's declaratory judgment action and PersonalWeb's case against one representative Amazon customer, Twitch Interactive, Inc. ("Twitch").¹ *Id.* The court stayed all other customer cases on the basis of PersonalWeb's representation that it would not be able to proceed in the other customer cases if it lost its case against Twitch. *Id.*

Because of a prior lawsuit in 2011 by PersonalWeb alleging infringement by Amazon's S3 web host servers, the district court granted partial summary judgment in favor of Amazon based on claim preclusion and the *Kessler* doctrine, which this court later affirmed. *Id.* at 1373. The litigation continued in the district court with respect to PersonalWeb's infringement allegations against Amazon's CloudFront servers. Those allegations centered on the

¹ Twitch is an Amazon subsidiary. Although the case against Twitch in the district court appears to have proceeded in parallel with the case against Amazon, for purposes of this appeal the noninfringement issues are identical. Therefore, unless otherwise noted, we refer to the appellees collectively as "Amazon."

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