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AMAZON WEB SERVICES, INC., and
TWITCH INTERACTIVE, INC.

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

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

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

18 Plaintiffs

19 v.

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

21 Defendants,

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

23 Plaintiffs,

24 v.

25 TWITCH INTERACTIVE, INC.,

26 Defendant.

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

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

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

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT**

FENWICK & WEST LLP
ATTORNEYS AT LAW

1 Plaintiff PersonalWeb Technologies, LLC (“PersonalWeb”) and defendants Amazon.com,
2 Inc., Amazon Web Services, Inc., and Twitch Interactive, Inc. (collectively, “Amazon”) jointly
3 submit this case management conference statement pursuant to Judge Freeman’s Standing Order re
4 Civil Cases, the Standing Order for All Judges of the Northern District of California – Contents of
5 Joint Case Management Statement, and Civil Local Rules 16-9 and 16-10.

6 **I. AMAZON’S STATEMENT**

7 Amazon previously submitted a statement of its positions in its request for a case
8 management conference. (Dkt. 717 (18-md-2834).) Amazon’s position remains the same and there
9 has been no meaningful change in the parties’ respective positions. PersonalWeb has made no
10 additional document production since August 6, 2021 and has refused to supplement or amend its
11 interrogatory responses to comply with the Court’s past orders.

12 **II. PERSONALWEB’S STATEMENT**

13 PersonalWeb, SAM and Mr. Gersh intend to submit a statement in response to Dkt 717, but
14 unfortunately Mr. Gersh, who is the primary draftsman of this submission, is quite with ill with
15 COVID and is unable to go through each and every argument on such short notice, though either
16 he or others at Stubbs Alderton & Markiles, LLP (“SAM”) may supplement his submission early
17 next week.

18 As this court is aware, SAM is caught in the middle given that it has been discharged by
19 PersonalWeb on all post judgment matters other than the appeals, has sought to withdraw from
20 these proceedings which was opposed by Amazon and its counsel and ultimately denied by this
21 court. The request for a CMC, Dkt 717, reads more like a personal attack on SAM and Mr. Gersh
22 and muddies the facts. The Receivership action was not filed by SAM and neither SAM nor Mr.
23 Gersh are involved or represent anyone in those proceedings. In fact, neither SAM nor Mr. Gersh
24 are on the service list in those proceedings so there is little that is known about the status of same
25 absent reading the state court documents.

26 Amazon and its counsel complain about the nature of the receivership proceedings in the
27 state court action (see exhibits to Mr. Gregorian’s declaration), yet Amazon and its counsel have
28 known about those proceedings for approximately 6 months. Although Mr. Gersh sent an email

1 to Amazon’s counsel about the stay and his understanding of the impact on the discovery and
2 collection efforts of Amazon, it is clear from Mr. Gregorian’s declaration that Amazon and its
3 counsel knew about the receivership action well before Mr. Gersh’s email given that Amazon and
4 its counsel actively participated in the state court action at least as early as August 2021 and filed
5 a number of motions including attempting to intervene in that action which was denied without any
6 opposition having been filed. Neither SAM nor Mr. Gersh appear on the service list for Amazon’s
7 intervention efforts and represented no one in connection with those intervention proceedings.

8 The conundrum is that this court issued an order regarding discovery; SAM and Mr. Gersh
9 have complied with their ethical obligations as the court was told they would; as set forth in the
10 recent filing by Amazon the California state court has issued an injunction against anyone
11 “...prosecuting, commencing or enforcing any suit, judgment, levy lien or proceeding against
12 Defendant PersonalWeb...” (Dkt 717 page 5)

13 The effect of the California state court receivership action is not a matter over which SAM
14 expresses an opinion. SAM has been advised that PersonalWeb is being managed by a receiver,
15 Amazon lost its attempt to intervene in the state case, there is an injunction against Amazon from
16 pursuing any further collection, Amazon appealed the order denying their motion to intervene.
17 SAM represents no one in the state court receivership action. Amazon expresses frustration that its
18 actions in the state court proceedings have not been successful. But that does not mean that SAM
19 and/or Mr. Gersh, or PersonalWeb, has done anything improper or not in conformity with
20 applicable order in the state court action.

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Respectfully submitted,

Dated: January 13, 2022

FENWICK & WEST LLP

By: /s/ Todd R. Gregorian
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Attorneys for AMAZON.COM, INC.,
AMAZON WEB SERVICES, INC., and
TWITCH INTERACTIVE, INC.

Dated: January 13, 2022

STUBBS ALDERTON & MARKILES LLP

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JEFFREY F. GERSH (CSB No. 87124)

Attorneys for PERSONALWEB
TECHNOLOGIES, LLC

CERTIFICATION OF CONCURRENCE IN FILING

I, Todd R. Gregorian, am the ECF user whose identification and password are being used to file this Joint Case Management Conference Statement. In compliance with N.D. Cal. Civil L.R. 5-1(h)(3), I hereby attest that Jeffrey F. Gersh has concurred in this filing.

Dated: January 13, 2022

By: /s/ Todd R. Gregorian
TODD R. GREGORIAN

FENWICK & WEST LLP
ATTORNEYS AT LAW