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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION

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

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

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

13 AMAZON.COM, INC. and AMAZON WEB  
SERVICE, INC.,

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

14 Plaintiffs,

**NOTICE OF MOTION AND STUBBS  
ALDERTON & MARKILES, LLP'S  
SECOND MOTION TO WITHDRAW AS  
COUNSEL FOR PERSONALWEB  
TECHNOLOGIES, LLC PURSUANT TO  
CALIFORNIA RULES OF  
PROFESSIONAL CONDUCT, RULE  
1.16(a)(2)**

15 v.

16 PERSONALWEB TECHNOLOGIES, LLC, et  
17 al.,

18 Defendants.

**DECLARATIONS OF ROBERT L. KEHR,  
DAVID PARKER, MICHAEL A.  
SHERMAN, AND JEFFREY F. GERSH  
FILED IN SUPPORT OF THE MOTION;  
AND [PROPOSED] ORDER**

19 PERSONALWEB TECHNOLOGIES, LLC, et  
20 al.,

21 Plaintiffs,

**Hearing date: June 23, 2022**

**Time: 9:00 a.m.**

**Judge: Hon. Beth Labson Freeman**

22 v.

23 TWITCH INTERACTIVE, INC.,

24 Defendant.  
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**NOTICE OF MOTION**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on June 23, 2022 at 9:00 a.m., or as soon thereafter as the matter may be heard before the Honorable Beth Labson Freeman, Courtroom 3, 5th Floor, of the United States District Court for the Northern District of California, San Jose Division, 280 South First Street, San Jose, California 95113, Stubbs Alderton & Markiles, LLP (“SAM”), will and hereby does move the Court, pursuant to Civil Local Rule 11-5(a) and California Rule of Professional Conduct 1.16(a)(2), to immediately and unconditionally withdraw as counsel of record for PersonalWeb Technologies, LLC (“PersonalWeb”), as a result of events that have occurred and issues that have arisen since the Court conditionally granted SAM’s prior motion to withdraw on June 25, 2021 (Dkt. 694.) This Motion is based on this Notice, the attached Memorandum of Points and Authorities, the Declarations of Robert L. Kehr, David Parker Michael A. Sherman, and Jeffrey F. Gersh, all the pleadings and records on file in this action, and any further argument or evidence as may be presented at or before the hearing on this matter.

Respectfully submitted,

Dated: February 10, 2022

STUBBS, ALDERTON & MARKILES, LLP

By: /s/ Michael A. Sherman

Michael A. Sherman  
Jeffrey F. Gersh

Attorneys for PERSONALWEB  
TECHNOLOGIES, LLC

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**MEMORANDUM OF POINTS AND AUTHORITIES****I. INTRODUCTION**

Through this Motion, Stubbs Alderton & Markiles, LLP (“SAM”) seeks to immediately and unconditionally withdraw as counsel of record for PersonalWeb Technologies, LLC (“PersonalWeb”) in Case No. 18-MD-2834-BLF and all related cases and matters now pending in the U.S. District Court for the Northern District of California (the “post judgment proceedings”).

SAM acknowledges that this Motion is SAM’s second motion to withdraw as counsel of record for PersonalWeb to be considered by the Court. SAM brings this Motion based on materially changed circumstances from that first motion briefed in May 2021 and decided in the Court’s Order dated June 25, 2021 (Withdrawal Order”), whereby the Court “conditionally” granted SAM’s prior motion to withdraw “...upon notice of appearance by [PersonalWeb’s substitute counsel] Ronald Richards, Personal Web’s counsel for post-judgment matters.” (Dkt. 694 at 4:6-8 (brackets added).)

SAM is mandated to withdraw by rules of ethics applicable to its attorneys based on new developments, events, facts, and issues that arose *after* the Withdrawal Order. As applicable here, California Rule of Professional Conduct 1.16(a)(2) (which replaced Rule of Professional Conduct 3-700, effective November 1, 2018) mandates withdrawal if the “lawyer knows or reasonably should know that the representation will result in violation of these rules or of the State Bar Act...” As explained below, SAM cannot continue to represent PersonalWeb in the matter of these post judgment discovery/compliance proceedings because (*in addition to PersonalWeb having discharged SAM in representing PersonalWeb on post judgment collection matters, the subject of the prior motion*) (1) there has been an irremediable breakdown in the relationship between SAM and PersonalWeb, (2) SAM cannot render competent legal services to PersonalWeb in the post judgment proceedings, and (3) there is an actual, adverse, and irreconcilable conflict of interest between SAM and PersonalWeb, which mandates SAM’s withdrawal. (Declaration of Robert Kehr (“Kehr Decl.”), ¶¶3-7; Declaration of Michael A. Sherman (“Sherman Decl.”), ¶¶5-8; Declaration of Jeffrey F. Gersh (“Gersh Decl.”), ¶¶5-8.) In both SAM’s view and that of its ethics expert Robert L. Kehr, these three bases of mandatory withdrawal have emerged in the period following the June 25, 2021 Withdrawal Order. (*Id.*)

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