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

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

15 PERSONAL WEB TECHNOLOGIES, 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

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

18 Plaintiffs

19 v.

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

21 Defendants.

**OPPOSITION OF AMAZON.COM, INC.,
AMAZON WEB SERVICES, INC., AND
TWITCH INTERACTIVE, INC. TO
SECOND MOTION TO WITHDRAW
AS COUNSEL BY STUBBS ALDERTON
& MARKILES, LLP**

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

24 Plaintiffs,

25 v.

26 TWITCH INTERACTIVE, INC.,

27 Defendant.
28

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16 PersonalWeb’s principals is irrelevant because the state court

17 receiver has exclusive control over PersonalWeb in the

18 litigation. 14

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20 PersonalWeb’s principals is not a valid basis to withdraw

21 unconditionally in any event. 15

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1 **I. INTRODUCTION**

2 This motion is the sixth filing by Stubbs Alderton and Markiles, LLP (“SAM”) seeking to
3 withdraw as counsel for PersonalWeb. (*See* Dkts. 674, 678, 679, 683, 688, 728.) The Court already
4 ruled last year that SAM may withdraw when substitute counsel has appeared. (Dkt. 694.) The
5 Court did not permit SAM to withdraw unconditionally because that would prejudice Amazon:
6 PersonalWeb is an LLC which cannot represent itself in federal court, and SAM’s involvement
7 allows the Court to preserve a line of communication without which it could not conduct
8 meaningful post-judgment proceedings. (*Id.* at 3–4.) SAM points to no valid reason for the Court
9 to reconsider this ruling.

10 Since May 2021, a California Superior Court order has given a receiver *exclusive control*
11 over PersonalWeb’s operations, including managing (or even replacing) its counsel in this
12 litigation. PersonalWeb’s principals Kevin Bermeister and Michael Weiss used an asset protection
13 scheme to obtain this receivership shortly after this Court awarded over \$5 million in fees to
14 Amazon. Their purpose was to gain a means to protect new payments to SAM and other attorneys
15 pursuing PersonalWeb’s patent lawsuits, while shielding those payments and any other
16 PersonalWeb cash and assets from this Court’s judgment. Once they achieved this goal,
17 PersonalWeb’s principals treated the receivership as a sham—they continued running PersonalWeb
18 themselves despite knowing that the state court’s order divested them of that authority. SAM, for
19 its part, participated in this arrangement for eight months: SAM took orders from Mr. Bermeister
20 and his “judgment enforcement counsel” Ronald Richards that the receiver did not approve; SAM
21 argued that any attempt to enforce this Court’s discovery orders would undermine the receivership
22 and put Amazon in contempt of the state court injunction assuming control of the PersonalWeb
23 estate; and SAM waited until *after* the state court approved up to \$1 million in new payments to
24 SAM and others before claiming that the *same basic facts it knew in the summer of 2021*—i.e., Mr.
25 Bermeister’s interference with the receivership and this Court’s discovery orders—only just now
26 create an ethical conflict that justifies SAM’s unconditional withdrawal. SAM’s motion is thus just
27 one more example of the opportunistic changes in position that characterized this case.
28

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