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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

IN RE: PERSONALWEB TECHNOLOGIES,
LLC ET AL.

PERSONALWEB TECHNOLOGIES, LLC, a
Texas limited liability company, and
LEVEL 3 COMMUNICATIONS, LLC, a
Delaware limited liability company,

Plaintiffs,

v.

MERKLE, INC., a Maryland corporation,

Defendant

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

Case No. 5:18-cv-00409

**JOINT STIPULATION AND
PROPOSED ORDER EXTENDING
TIME FOR DEFENDANT TO
RESPOND TO FIRST AMENDED
COMPLAINT**

1 Pursuant to Civil L.R. 6-1 and 6-2, plaintiffs PersonalWeb Technologies, LLC and Level 3
2 Communications, LLC (collectively “PersonalWeb”) and defendant Merkle, Inc. (“Merkle”)
3 hereby stipulate and recite as follows:

4 WHEREAS, on January 18, 2018, PersonalWeb filed a Complaint (Dkt. No. 1) for patent
5 infringement naming Merkle as the defendant;

6 WHEREAS, on February 20, 2018, Amazon.com, Inc. and Amazon Web Services, Inc.
7 (collectively “Amazon”) filed a motion for preliminary injunction to enjoin this case and other
8 similar patent infringement lawsuits that PersonalWeb filed against other website operators (Dkt.
9 No. 15; *Amazon.com, Inc. et al. v. PersonalWeb Tech., LLC et al.*, Case No. 5:18-cv-00767-BLF
10 (N.D. Cal.));

11 WHEREAS, on February 20, 2018, PersonalWeb and Merkle filed a stipulation (Dkt. No. 15)
12 to extend the time for Merkle to answer or otherwise respond to the Complaint to April 7, 2018;

13 WHEREAS, on March 29, 2018, PersonalWeb and Merkle filed a second stipulation (Dkt.
14 No. 22) to extend the time for Merkle to answer or otherwise respond to the Complaint to June 22,
15 2018, and the Court granted that stipulation on April 2, 2018 (Dkt. No. 24);

16 WHEREAS, on April 10, 2018, Merkle filed a motion to stay this case (Dkt. No. 28) pending
17 resolution of Amazon’s DJ action and that motion is fully briefed;

18 WHEREAS, on April 13, 2018, PersonalWeb filed a motion to dismiss Amazon’s First
19 Amended Complaint in the Amazon DJ action (Dkt. No. 43; *Amazon.com, Inc. et al. v. PersonalWeb
20 Tech., LLC et al.*, Case No. 5:18-cv-00767-BLF (N.D. Cal.));

21 WHEREAS, on April 27, 2018, this Court held a hearing on Amazon’s preliminary
22 injunction motion and motions to stay in fourteen suits PersonalWeb filed against website operators;

23 WHEREAS, at the April 27, 2018 hearing, the parties agreed to a stay of those fourteen
24 actions against other website operators until the June 7, 2018 hearing on PersonalWeb’s motion to
25 dismiss Amazon’s First Amended Complaint (*Amazon.com, Inc. et al. v. PersonalWeb Tech., LLC
26 et al.*, Case No. 5:18-cv-00767-BLF (N.D. Cal.));

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1 WHEREAS, on May 11, 2018, PersonalWeb withdrew its motion to dismiss Amazon's First
2 Amended Complaint (Dkt. No. 59; *Amazon.com, Inc. et al. v. PersonalWeb Tech., LLC et al.*, Case
3 No. 5:18-cv-00767-BLF (N.D. Cal.)), and the June 7, 2018 hearing was taken off calendar;

4 WHEREAS, on May 29, 2018, PersonalWeb filed a First Amended Complaint (Dkt. No. 37)
5 and Merkle's deadline to answer or otherwise respond to that First Amended Complaint is June 15,
6 2018;

7 WHEREAS, Merkle's motion to stay this case remains pending and is set to be heard on July
8 19, 2018;

9 WHEREAS, Merkle has requested, and PersonalWeb has agreed to, an extension of time, up
10 to and including August 16, 2018, for Merkle to file an answer or otherwise respond to
11 PersonalWeb's First Amended Complaint (Dkt. No. 37);

12 WHEREAS, the parties may consider an additional extension of the deadline for Merkle to
13 file an answer or otherwise respond to the First Amended Complaint if the Court has not yet issued
14 an order on Merkle's motion to stay (Dkt. No. 28) as of August 2, 2018;

15 WHEREAS, the parties do not expect that this change will impact any other dates already
16 fixed by Court Order;

17 **THE PARTIES HEREBY STIPULATE** and jointly request that Merkle shall have up to and
18 including August 16, 2018 to submit an answer or otherwise respond to PersonalWeb's First
19 Amended Complaint (Dkt. No. 37).

20 Respectfully submitted,

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1 Dated: June 14, 2018

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP

2
3 By: /s/ Robert F. McCauley

Robert F. McCauley
Attorneys for Defendant
MERKLE, INC

4
5 Dated: June 14, 2018

STUBBS ALDERTON MARKILES, LLP

6
7 By: /s/ Michael A. Sherman

Michael A. Sherman
Attorneys for Plaintiff
PERSONALWEB TECHNOLOGIES, LLC

8
9 Dated: June 14, 2018

DAVID D. WIER

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11 By: /s/ David D. Wier

David D. Wier
Attorneys for Plaintiff
LEVEL 3 COMMUNICATIONS, LLC

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14 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

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16 Dated: _____

Honorable Beth Labson Freeman
United States District Judge

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19 **ATTESTATION**

20 Counsel for Merkle hereby attests by his signature below that concurrence in the filing of this
21 document was obtained from counsel for PersonalWeb and Level 3.

22
23 Dated: June 14, 2018

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP

24
25 By: /s/ Robert F. McCauley

Robert F. McCauley
Attorneys for Defendant
MERKLE, INC.