

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PERSONALWEB
TECHNOLOGIES, LLC, PATENT
LITIGATION

Case No. [18-md-02834-BLF](#) (SVK)

**ORDER ON DISCOVERY DISPUTES;
SETTING DECEMBER 14, 2022
HEARING**

Re: Dkt. Nos. 801, 808, 807, 810, 814

United States District Court
Northern District of California

The Court has reviewed the briefs following the discovery hearing held on November 9, 2022 (Dkt. 798) relating to the production of documents from Stubbs Alderton, former counsel to judgment-debtor Personal Web in this matter, and the briefs arising out of the Joint Submission (Dkt. 801) relating to the production of documents by third-party investors in Personal Web, Brilliant Digital Entertainment, Inc. (“BDE”), Claria Innovations, LLC (“Claria”) and Europlay Capital Advisors, LLC (“ECA”). Dkt. Nos. 801, 802, 806, 807, 808, 810, 814, 815. Some of the issues raised in the briefs are distinct as to the parties involved while others present substantial overlap, such as the Stubbs Alderton production and the sufficiency of the search and production by Mr. Markiles on behalf of BDE and Claria.

Today, judgment-creditor Amazon filed an updated status report (Dkt. 815) reflecting potentially significant developments as to the Stubbs Alderton production. Specifically, Personal Web is in the process of producing an estimated 44,000 documents, production of which is to be completed by December 5, 2022. Notwithstanding this production, issues raised in the briefs may still be in need of resolution, and the Court is prepared to address these issues (*e.g.*, sufficiency of production of documents by clients; adequacy of counsel oversight; issues of “control” as between Mr. Markiles as managing agent of ECA and Claria and as a partner of Stubbs Alderton).

United States District Court
Northern District of California

1 However, it may be that the production sufficiently addresses at least the Markiles/Stubbs
2 Alderton production issues.

3 Accordingly, in the interest of judicial and litigation efficiency, the Court ORDERS as
4 follows:

- 5 • A copy of this Order is to be served by Amazon on Stubbs Alderton.
- 6 • Amazon, Personal Web, a representative of Stubbs Alderton with personal
7 knowledge of the representations on information and belief set forth in the
8 declaration of Murray Markiles (Dkt. 808-2, ¶¶ 9–12), Mr. Markiles and counsel
9 for BDE, ECA and Claria are to appear on **December 14, 2022 at 10:00 a.m.**, for
10 an in-person hearing regarding the adequacy of document productions to date. The
11 Court will hear proffers from counsel and may take evidence. The Court will
12 address any remaining open issues raised in the briefing identified above.
- 13 • As Amazon receives the most recent production from Personal Web, it is to search
14 for Exhibits 2, 3, 9, 22 and 25 to the declaration of Christopher Lavin (Dkt. 810-1),
15 which appear to reflect Mr. Markiles’ use of his Stubbs Alderton email account to
16 conduct business for ECA or Claria relating to Personal Web.
- 17 • **No later than 12:00 p.m. on Friday, December 9, 2022**, Amazon is to report the
18 results of its search, as well as any other status updates, in a submission not to
19 exceed three pages.
- 20 • **No later than 12:00 p.m. on Friday, December 9, 2022**, any other party or third-
21 party may also provide status updates, not to exceed three pages.
- 22 • The status reports are for new developments only; the Court will not consider
23 arguments or evidence already before it.
- 24 • All parties to these disputes are encouraged to continue meet-and-confer efforts to
25 resolve outstanding issues and obviate the need for a hearing.

26 //


27 //

28 //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SO ORDERED.

Dated: December 2, 2022



SUSAN VAN KEULEN
United States Magistrate Judge

United States District Court
Northern District of California