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ENTERTAINMENT, INC.; MONTO HOLDINGS
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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION

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

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

14 AMAZON.COM, INC., and AMAZON WEB
15 SERVICES, INC.,

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

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

16 Plaintiffs

17 v.

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

19 Defendants.

**RESPONSE OF BRILLIANT DIGITAL
ENTERTAINMENT, INC. TO STATUS
REPORT FILED BY AMAZON [DKT.
823]**

Date: January 6, 2023

Time: 1:30 p.m.

Judge: Hon. Susan van Keulen

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

21 Plaintiffs,

22 v.

23 TWITCH INTERACTIVE, INC.,

24 Defendant.

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1 TO THE COURT AND CLERK:

2 Third Party, Brilliant Digital Entertainment, Inc. ("BDE"), Secured Lender, respectfully
3 submits this partial response to the "Status Report" filed by Amazon January 3, 2023, specifically
4 regarding the statements at p. 2:10-18 regarding the emails between BDE's counsel, Frandzel
5 Robins Bloom & Csato, L.C. ("FRBC") and Michael Weiss, two of which were not originally
6 produced to Amazon as part of the response to Amazon's subpoenas directed to the Third Party
7 Secured Lenders.

8 By this response, BDE would like the Court to consider the following points: (1) Counsel
9 for BDE has investigated the issue of the two emails not having been produced, reported back to
10 Amazon's counsel on January 4, 2023, and is working with the IT vendor for FRBC to rectify the
11 matter and produce any further documents in response to Amazon's subpoena to FRBC's clients
12 that called for documents on the FRBC email system.

13 (2) Amazon's pretended shock and dismay at discovering, supposedly for the first time
14 in December 2022, that Secured Lenders and PersonalWeb ("PW") had amended the decade-long
15 security interests held by Secured Lenders in PW's IP and other assets shortly before applying for
16 the receivership in the state court Receivership Action, is just that -- a pretense. In response to
17 Amazon's subpoenas in June 2022, Secured Lenders produced detailed records showing all of the
18 documents regarding the secured loans with PW, including the amended security agreements and
19 UCC public filings dated in late April 2021. Thus, the facts and substance of the amendments
20 were hardly "newly discovered," as Amazon's would have the Court believe, and were produced
21 wholly independent of the newly produced email.

22 (3) After a year plus effort -- unopposed by Secured Lenders -- Amazon has now
23 received permission to intervene in the state court Receivership Action and has filed and served its
24 complaint in intervention asserting against PW and Secured Lenders its claims of supposed
25 wrongdoing and nefarious conduct. Amazon will now have to prove its claims (including the
26 claim that the amendments to the security agreement were somehow wrongful) by admissible
27 evidence -- in the vernacular, "put up or shut up" -- rather than litigate its supposed claims in one-
28 line snippets in "Status Reports" and other filings where same are not subject to full evidentiary

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1 challenge.

2 (4) The problem with the FRBC efforts to identify and produce the two Weiss emails
3 described in the Status Report was a problem with FRBC and the production protocols from its
4 own records -- not any problem or issue as to the individual Secured Lenders or the Stubbs firm.

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6 Dated: January 5, 2023

Respectfully submitted,
FRANDZEL ROBINS BLOOM & CSATO, L.C.
THOMAS M. ROBINS III
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BRUCE D. POLTROCK

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14 MONTO HOLDINGS PTY. LTD.
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