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January 31, 2023

BY ELECTRONIC FILING

The Honorable Susan van Keulen, Magistrate Judge
United State District Court for the Northern District of California
San Jose Courthouse, Courtroom 6 – 4th Floor
280 South 1st Street
San Jose, CA 95113

**Re: In Re Personal Web Technologies, LLC et al., Patent Litigation
Case No.: 5:18-md-02834-BLF, Case No.: 5:18-cv-00767-BLF,
Case No.: 5:18-cv-05619-BLF**

Dear Judge van Keulen:

Pursuant to the direction of this Court at the hearing on January 5, 2023, and your subsequent court order dated January 23, 2023, Dkt. 842, (“January 23 Order”) following the hearing (Dkt. 836), Stubbs Alderton & Markiles, LLP (“SAM”) respectfully submits this letter brief per the Court’s direction to respond to those issues set forth in the January 23 Order.

At the request of Personal Web, SAM’s prior client in the District Court, the firm has furnished to its new counsel Lewis Roca, nearly 50,000 documents, with all but approximately 46 documents furnished on or before January 25. These documents were located within multiple repositories maintained by SAM. The multiple repositories include SAM’s e-mail server, two platforms used by the firm in maintaining files electronically (one an off-the-shelf product called “NetDocs” and another a hard drive the firm has maintained in its Santa Monica office called “Santa Server” that is a network-attached storage system and occasionally used by the firm as a simple file server primarily for transitory storage), a hard drive the firm had received from the McKool Smith law firm, and various hard copy files. Our approach to searching the multiple repositories varied in that the same search parameters that the Court and counsel had been advised of with respect to the searches conducted on the SAM email server were not utilized for the other repositories, (i.e., Santa Server, NetDocs and the McKool hard drive). The other repositories did not require the same search parameters as the SAM email server because all of the documents searched on NetDocs, the Santa Server, and the McKool hard drive already contained documents in some way either

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broadly related to PersonalWeb but clearly either not responsive or manifestly in filed in error.

In reviewing any/all potentially deliverable documents to furnish to Lewis Roca, SAM determined that there were some number of documents that either (a) did not belong to PersonalWeb or belonged to other clients of SAM, (b) are SAM work product not shared with Personal Web's directors, officers or employees, (c) are the product of Europlay Capital Advisors litigation consulting services whom we understand had provided confidential consulting services to outside litigation counsel representing PersonalWeb over the years , or (d) are otherwise are not responsive (*e.g.*, documents located within the Santa Server, Netdocs or McKool that manifestly had nothing to do with anything remotely germane such as a Super Bowl grid pool, e-mails announcing a firm lunch schedule, *etc.*). Mr. Sherman and I made all such determinations of what documents should be furnished to Personal Web's new counsel, or not. Within those four categories of documents not furnished to Lewis Roca, the numbers of documents approximate and correlate to above-referenced categories (a) 2,500, (b) 9,700, (c) 5,800, and (d) 4,900.

We continue to review these 4 categories to ensure that documents were properly coded for placement therein (in fact, yesterday 46 documents were furnished to Lewis Roca due to the realization that certain documents were incorrectly designated . We also anticipate placing into these categories (a) through (d) documents drawn from the physical furnishing of documents made to Lewis Roca that were not withheld for one of the four above-cited reasons. From a timing standpoint, we anticipate completion of these tasks within approximately the next week. We have provided to counsel for the subpoenaed parties categories (a) and (c), at their request.

Further, in terms of furnishing documents to Lewis Roca as well as their placement into categories (a) through (d), SAM attempted to avoid wholesale furnishment to Lewis Roca of entire pleadings files and caches of documents produced/documents received in formal discovery, and generally avoided placing into those categories filed pleadings, discovery pleading documents, or documents produced or received in discovery (though in our continued review we do notice some exceptions as a result of the enormity of the searches involved). These were areas where over the past several months we had provided notice to Lewis Roca of SAM's intentions.

Lewis Roca was advised in approximately the summer of 2022 of the existence of an off-the-shelf document management database, CSDisco, that our offices utilized during the pendency of the underlying patent litigations, which was intended to be used primarily for wholesale document productions. However, because fees were owing to CSDisco for the archived storage and management of this database, which were not paid by PersonalWeb, CSDisco would not re-activate the archived files until their past due bills were paid. Thus our firm has not had access to the CSDisco files since December 2020. We suggested to Lewis Roca that if they wanted access to the PersonalWeb files on CSDisco that they needed to

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contact CSDisco and make financial arrangements directly with them to obtain access to the files.

As your Honor knows, SAM is not a party to the present action, has not been served with a subpoena, and has only been complying with its ethical obligations viz-a-viz its former client. SAM is of the view that this report discharges all of its obligations to its former client regarding SAM furnishing documents to its former client per its ethical obligations and that no further comment/briefing/complaining ought to be in order. In your most recent Order, Your Honor did *not* invite unsolicited commentary or critique about what SAM is hereby reporting. If Your Honor “ask[s] for additional briefing from all parties on the remaining issues if needed” then clearly SAM would have a lot to say about what it has done to discharge its obligations and that it should be able to move along with its partners’ law practices no longer burdened by these enormous costs and obligations.

Respectfully submitted.

STUBBS ALDERTON & MARKILES, LLP



Jeffrey F. Gersh

JFG:abm

cc: Michael Sherman (i/o)