

FRANDZEL ROBINS BLOOM & CSATO, L.C.  
1000 WILSHIRE BOULEVARD, NINETEENTH FLOOR  
LOS ANGELES, CALIFORNIA 90017-2427  
(323) 852-1000

1 Thomas M. Robins III (State Bar No. 054423)  
trobins@frandzel.com  
2 Michael G. Fletcher (State Bar No. 070849)  
mfletcher@frandzel.com  
3 Bruce D. Poltrock (State Bar No. 162448)  
bpoltrock@frandzel.com  
4 FRANDZEL ROBINS BLOOM & CSATO, L.C.  
1000 Wilshire Boulevard, Nineteenth Floor  
5 Los Angeles, California 90017-2427  
Telephone: (323) 852-1000  
6 Facsimile: (323) 651-2577  
7 Attorneys for Third Parties  
BRILLIANT DIGITAL ENTERTAINMENT, INC.;  
8 MONTO HOLDINGS PTY. LTD.

9  
10 Mark Holscher (SBN 139582)  
mark.holscher@kirkland.com  
Michael Shipley (SBN 233674)  
11 michael.shipley@kirkland.com  
Matthew Gamsin (SBN 307830)  
12 matthew.gamsin@kirkland.com  
KIRKLAND & ELLIS LLP  
13 555 South Flower Street  
Los Angeles, CA 90071  
14 Telephone: (213) 680-8400  
15 Attorneys for Third Parties  
EUROPLAY CAPITAL ADVISORS, LLC and  
16 CLARIA INNOVATIONS, LLC

17  
18 UNITED STATES DISTRICT COURT  
19 NORTHERN DISTRICT OF CALIFORNIA - SAN JOSE DIVISION

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

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

21  
22 AMAZON.COM, INC., and AMAZON WEB  
SERVICES, INC.,

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

23 Plaintiffs

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

24 v.

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

**RESPONSE OF THIRD PARTIES,  
BRILLIANT DIGITAL  
ENTERTAINMENT, INC., MONTO  
HOLDINGS PTY LTD, EUROPLAY  
CAPITAL ADVISORS, LLC AND  
CLARIA INNOVATIONS, LLC TO  
AMAZON'S ADMINISTRATIVE  
MOTION TO CONSIDER WHETHER  
ANOTHER PARTY'S MATERIAL  
SHOULD BE SEALED RE AMAZON'S  
MOTION TO COMPEL PRIVILEGED**

26 Defendants.  
27  
28

FRANZEL ROBINS BLOOM & CSATO, L.C.  
1000 WILSHIRE BOULEVARD, NINETEENTH FLOOR  
LOS ANGELES, CALIFORNIA 90017-2427  
(323) 852-1000

1 PERSONALWEB TECHNOLOGIES, LLC, and  
2 LEVEL 3 COMMUNICATIONS, LLC,  
3  
4 v. Plaintiffs,  
5  
6 TWITCH INTERACTIVE, INC.,  
7  
8 Defendant.

**DOCUMENTS [Dkt. 863]**

9 Third Parties, Brilliant Digital Entertainment, Inc. (“BDE”), Monto Holdings Pty Ltd.  
10 (“Monto”), Europlay Capital Advisors, LLC (“ECA”), and Claria Innovations, LLC (“Claria”)  
11 (collectively, “Secured Lenders”) hereby respond to Amazon’s administrative motion (“Motion”)  
12 under Local Civil Rule 7-11 pending the Court’s ruling on whether same should be sealed pursuant  
13 to Local Rule 79-5.

14 Amazon filed this Motion at 11:46 p.m., Friday, April 7, 2023, providing Secured Lenders  
15 with a total of four calendar days (two of which are over the Easter weekend) to respond with respect  
16 to not only portions of Amazon’s supplemental brief filed in connection with its motion to compel,  
17 but with respect to the Exhibits to the Gregorian Decl., plus an Exhibit 2 to the supplemental brief,  
18 that is a Gregorian Decl. provisionally filed under seal in the State Court Receivership Action in  
19 Opposition to Secured Lenders’ anti-SLAPP motion directed at Amazon’s complaint-in-  
20 intervention, which attaches 90 Exhibits, the majority of which comprise documents produced by  
21 Secured Lenders in response to the third party subpoenas pursuant to the Stipulated Amended  
22 Protective Order.

23 Secured Lenders respectfully submit that it is overly burdensome to require them to respond  
24 as to each document that Amazon has filed under seal in the time frame stated in LR 79-5.  
25 Moreover, where, as here, the documents are filed in connection with a non-dispositive discovery  
26 motion, the Ninth Circuit has held that the strong presumption of public access to filed documents  
27 does not apply. Thus, when the Court has already decided that certain documents should be shielded  
28 from public access pursuant to a protective order, the party designating same as confidential or  
attorneys eyes only is not required to come forward with a showing of good cause for sealing when  
such documents are filed with a non-dispositive motion. *Phillips ex rel Estate of Byrd v. General*



1 *Motion Corp.*, 307 F.3d 1206, 1213 (9<sup>th</sup> Cir. 2002). This rule should also apply here because no  
2 third party seeks discovery of these documents.

3 Moreover, Secured Lenders respectfully submit that the resources of this Court are better  
4 utilized focusing on the merits of Amazon’s underlying motion to compel as opposed to being side-  
5 tracked on a document-by-document determination of good cause for the claimed confidentiality  
6 treatment.

7 Accordingly, Secured Lenders request that the Court enter the proposed order granting  
8 Amazon’s motion.

9  
10 DATED: April 11, 2023

FRANDZEL ROBINS BLOOM & CSATO, L.C.

11 By:           /s/ THOMAS M. ROBINS III            
12 THOMAS M. ROBINS III  
13 Attorneys for Third Parties BRILLIANT  
14 DIGITAL ENTERTAINMENT, INC.; MONTO  
15 HOLDINGS PTY. LTD.

16 DATED: April 11, 2023

KIRKLAND & ELLIS LLP  
MARK HOLSCHER  
MICHAEL SHIPLEY  
MATTHEW GAMSIN

17 By:           /s/ MICHAEL SHIPLEY            
18 MICHAEL SHIPLEY  
19 Attorneys for Third Parties Europlay Capital  
20 Advisors, LLC and Claria Innovations, LLC  
21  
22  
23  
24  
25  
26  
27  
28

FRANDZEL ROBINS BLOOM & CSATO, L.C.  
1000 WILSHIRE BOULEVARD, NINETEENTH FLOOR  
LOS ANGELES, CALIFORNIA 90017-2427  
(323) 852-1000