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7 Attorneys for Third Parties BRILLIANT
DIGITAL ENTERTAINMENT, INC. and
8 MONTO HOLDINGS PTY LTD

9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN JOSE DIVISION**

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

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

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

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

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

17 Plaintiffs

**DECLARATION OF THOMAS M.
ROBINS, III IN SUPPORT OF BDE AND
MONTO OPPOSITION TO AMAZON'S
MOTION TO COMPEL PRODUCTION
OF DOCUMENTS OF THIRD PARTIES
BDE/MONTO WITHHELD AS
PRIVILEGED (Dkt. 860, 862, 864)**

18 v.

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

21 Defendants,

22 PERSONALWEB TECHNOLOGIES, LLC,
23 and LEVEL 3 COMMUNICATIONS, LLC,

24 Plaintiffs,

25 v.

26 TWITCH INTERACTIVE, INC.,

27 Defendant.
28

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1 I, Thomas M. Robins, III, declare:

2 1. I am an attorney at law duly licensed to practice before all of the courts of the State
3 of California and this Court. I am a shareholder of Frandzel Robins Bloom & Csato, L.C.,
4 attorneys of record for Third Parties Brilliant Digital Entertainment, Inc. (“BDE”) and Monto
5 Holdings Pty, Ltd. (“Monto”). If called as a witness, I could and would testify to the following
6 based on my own personal knowledge.

7 2. I personally became actively involved in this case in March 2022. Thus, I have no
8 personal knowledge about the events and communications that occurred between our clients, my
9 colleagues Michael Gerard Fletcher, Craig Welin and/or Bruce Poltrock, and the Stubbs Alderton
10 firm (“SAM”) and Jeffrey Gersh back in April 2021.

11 3. Since Amazon began its efforts to compel production of the materials that are
12 included in our client’s privilege log (see Amazon’s original Exhibit A filed with the Joint
13 Statement, Dkt. 860-2, color coded Orange (Gersh emails) and Yellow (non-Gersh Emails), I have
14 been speaking with Jeffrey Gersh of SAM regarding the events that occurred in late March
15 through late April 2021 that are reflected in the Bermeister, Neumann, Dyne, Markiles, Fletcher
16 and Welin declarations filed concurrently herewith and the matters that are the subject of
17 Amazon’s current motion.

18 4. Following the issuance of the Court’s Order, Dkt. 862, I emailed and spoke with
19 Mr. Gersh about providing a declaration addressing the issues raised by the motion. Mr. Gersh
20 stated that he was reluctant to provide a declaration. On Saturday, April 8, 2023, I was telephoned
21 by Michael A. Sherman of SAM who told me that, on the advice of counsel, Mr. Gersh would not
22 be providing a declaration.

23 5. On the afternoon of Monday, April 18, 2023, I was told by Kevin Bermeister and
24 later, Murray Markiles, that Mr. Gersh was now willing to consider a declaration but that he was
25 in New Orleans in depositions all that day and would be on April 19th, as well.

26 6. I attempted to reach Mr. Gersh the evening of April 18th and commencing at 5:30
27 a.m., my time, the morning of April 19th, both unsuccessful. At 8:15 a.m., I received a call from
28 Mr. Sherman who told me that Mr. Gersh would not be able to provide a declaration today

1 because of his schedule. I requested that he consider providing a declaration tomorrow, April
2 20th, which I would file with the Court, albeit beyond the opposition deadline set by the Court.

3 7. As of the time of signing this declaration I do not know whether such a declaration
4 from Mr. Gersh will be forthcoming, but if I receive one, it will be filed with the Court.

5 I declare under penalty of perjury under the law of the United States that the forgoing is
6 true and correct.

7 Executed this 19th day of April, 2023 at Los Angeles, California.

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THOMAS M. ROBINS III

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