

EXHIBIT 1

**United States Court of Appeals
for the Federal Circuit**

IN RE: PERSONALWEB TECHNOLOGIES LLC,

**AMAZON.COM, INC., AMAZON WEB SERVICES,
INC.,**
Plaintiffs-Appellees

v.

PERSONALWEB TECHNOLOGIES LLC,
Defendant-Appellant

LEVEL 3 COMMUNICATIONS, LLC,
Defendant

PERSONALWEB TECHNOLOGIES LLC,
Plaintiff-Appellant

LEVEL 3 COMMUNICATIONS, LLC,
Plaintiff

v.

TWITCH INTERACTIVE, INC.,
Defendant-Appellee

2021-1858, 2021-1859, 2021-1860

Appeals from the United States District Court for the Northern District of California in Nos. 5:18-cv-00767-BLF, 5:18-cv-05619-BLF, 5:18-md-02834-BLF, Judge Beth Labson Freeman.

Decided: November 3, 2023

J. DAVID HADDEN, Fenwick & West LLP, Mountain View, CA, for Amazon.com, Inc., Amazon Web Services, Inc, Twitch Interactive, Inc. Also represented by RAVI RAGAVENDRA RANGANATH, SAINA S. SHAMILOV; TODD RICHARD GREGORIAN, San Francisco, CA.

MICHAEL AMORY SHERMAN, Stubbs Alderton & Markiles LLP, Sherman Oaks, CA, for PersonalWeb Technologies LLC. Also represented by JEFFREY F. GERSH, WESLEY WARREN MONROE.

Before LOURIE, DYK, and REYNA, *Circuit Judges*.

Opinion for the court filed by *Circuit Judge* REYNA.

Dissenting opinion filed by *Circuit Judge* DYK.

REYNA, *Circuit Judge*.

PersonalWeb appeals a district court award of \$5,187,203.99 in attorneys' fees entered against it. PersonalWeb argues that we should reverse the award because the district court erred in finding that the underlying case was "exceptional" within the meaning of the term under 35 U.S.C. § 285. PersonalWeb also contends that, even if the case was exceptional and fees are appropriate, the district court erred in its calculation of the overall fee award. Because the district court did not abuse its discretion in finding this case exceptional or in calculating the total fees awarded, we affirm.

BACKGROUND

This is the third appeal from the same multidistrict litigation (“MDL”). See *In re PersonalWeb Techs., LLC*, 961 F.3d 1365 (Fed. Cir. 2020) (“*PersonalWeb I*”); *In re PersonalWeb Techs., LLC*, No. 20-1566, 2021 WL 3557196 (Fed. Cir. Aug. 12, 2021) (“*PersonalWeb II*”). In 2011, PersonalWeb sued Amazon in the Eastern District of Texas (Case No. 6:11-cv-658, referred to as the “Texas Action”), alleging that Amazon’s S3 technology infringed PersonalWeb’s patents. *PersonalWeb I*, 961 F.3d at 1370. The asserted patents¹ are generally directed to what the inventors termed the “True Name” for data items. *Id.* at 1369–70. After the district court construed the claim terms, PersonalWeb stipulated to dismissal, resulting in the district court dismissing with prejudice the infringement claims against Amazon and entering final judgment against PersonalWeb. *Id.* at 1372.

In 2018, PersonalWeb asserted the True Name patents against eighty-five Amazon customers (the “customer cases”) across the country for their use of Amazon S3. *Id.*; Appellant Br. 4. Amazon intervened and filed a declaratory judgment action against PersonalWeb “seeking an order barring PersonalWeb’s infringement actions against Amazon and its customers based on [the Texas Action].” *PersonalWeb I*, 961 F.3d at 1372. The customer cases and Amazon’s declaratory judgment action were consolidated into an MDL and assigned to the Northern District of California. *Id.* PersonalWeb represented that if it lost its case against Twitch, a customer case, it would not be able to prevail in the other customer cases. *Id.* On that basis, the

¹ The asserted patents are U.S. Patent Nos. 5,978,791 (the “791 patent”); 6,928,442 (the “442 patent”); 7,802,310 (the “310 patent”); 7,945,544 (the “544 patent”); and 8,099,420 (the “420 patent”) (collectively, the “asserted patents” or the “True Name patents”).

district court stayed the other customer cases so that only the Twitch customer case and Amazon’s declaratory judgment action proceeded in parallel.² *Id.*

In the declaratory judgment action, PersonalWeb counterclaimed against Amazon, alleging that Amazon S3 infringed its True Name patents. *Id.* Almost a year into the case, PersonalWeb accused another Amazon product, CloudFront, of infringement. J.A. 1188–1200. Amazon moved for summary judgment.

The district court granted partial summary judgment of non-infringement of the S3 product in favor of Amazon, based on the *Kessler* doctrine and claim preclusion. *PersonalWeb I*, 961 F.3d at 1373. We affirmed in *PersonalWeb I*. *Id.* at 1376–79. The litigation continued as to CloudFront. *PersonalWeb II*, 2021 WL 3557196, at *2. The district court granted summary judgment of non-infringement as to the CloudFront product in favor of Amazon and Twitch because, under the district court’s claim construction, PersonalWeb conceded it could not meet its burden of proving infringement. *Id.* at *3, *6. We affirmed in *PersonalWeb II*. *Id.* at *6.

The district court granted Amazon and Twitch’s motion for attorneys’ fees and costs under 35 U.S.C. § 285,³ determining that the case was exceptional. The district court found that:

- (1) PersonalWeb’s infringement claims related to Amazon S3 were objectively baseless and not reasonable when brought

² For convenience, we generally refer to the various cases that proceeded in this MDL as the singular “case.”

³ 35 U.S.C. § 285 provides: “The court in exceptional cases may award reasonable attorney fees to the prevailing party.”

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