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10 *Attorneys for PersonalWeb Technologies, LLC*

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 IN RE PERSONALWEB
14 TECHNOLOGIES, LLC, ET., AL.,
15 PATENT LITIGATION,

CASE NO. 5:18-md-02834-BLF

Case No. 5:18-cv-0767-BLF

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

16 AMAZON.COM, INC. and AMAZON
17 WEB SERVICE, INC.,

18 Plaintiffs,

19 v.

20 PERSONALWEB TECHNOLOGIES,
21 LLC, et al.,

22 Defendants.

**DECLARATION OF PATRICK
EMERSON MCCORMICK IN
SUPPORT OF PERSONALWEB
TECHNOLOGIES, LLC'S
SUPPLEMENTAL RESPONSE TO
AMAZON.COM, INC.'S MOTION
FOR FURTHER SUPPLEMENTAL
FEES REQUEST**

23 PERSONAL WEB TECHNOLOGIES,
24 LLC, et al.,

25 Plaintiffs

26 v.

27 TWITCH INTERACTIVE, INC.,

28 Defendant.

One South Church Avenue, Suite 2000
Tucson, AZ 85701-1611

LEWIS  **ROCA**

1 Amazon.” A true and correct copy of this email is attached hereto as **Exhibit D** at 10. Due
2 to the limitations of printing emails from Outlook, emails sent by me are in PST, while
3 emails sent by Amazon’s counsel are in MST.

4 5. In the interest of resolving this issue via stipulation instead of formal briefing,
5 I rearranged my workflow to accommodate Amazon’s request and provided those entries
6 later that same day. A true and correct copy of this email is attached hereto as Ex. D at 8.

7 6. Amazon’s counsel reminded me that Amazon had provided itemized lists of
8 the entries it had already waived, which I had forgotten to check in my rush to accommodate
9 Amazon’s request. On Saturday evening, November 18, 2023, I provided Amazon with an
10 updated list in which I removed three entries totaling less than \$3,000 as duplicative of
11 entries Amazon had already waived. A true and correct copy of this email is attached hereto
12 as Ex. D at 6-7.

13 7. Amazon’s counsel did not respond to PersonalWeb’s list of entries
14 PersonalWeb sought to exclude from Amazon’s supplemental attorneys’ fees until I
15 followed up with them on Monday, November 20, 2023 asking if Amazon was interested
16 in stipulating to a number. A true and correct copy of this email is attached hereto as Ex. D
17 at 6.

18 8. Amazon’s response that same day did not respond to the list of entries it had
19 requested I expedite, nor did it offer a proposed dollar amount or percentage of fees. Rather,
20 Amazon asserted legal arguments and offered a framework for which Amazon did not
21 provide any actual dollar amounts. A true and correct copy of this email is attached hereto
22 as Ex. D at 6.

23 9. I initiated attempts to contact my client after receiving Amazon’s offer of a
24 framework. I was unable to reach my client.

25 10. I reiterated my request for a specific dollar amount or for Amazon to identify
26 entries to which it objected, as the timing now provided me with only one day of lead time
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1 to communicate with PersonalWeb. A true and correct copy of this email is attached hereto
2 as Ex. D at 3.

3 11. Amazon responded twice. First, it stated that its proposals “would work out
4 to something like 180k-300k.” A true and correct copy of this email is attached hereto as
5 Ex. D at 5. Second, Amazon reiterated its legal arguments and its objection to deduction on
6 the grounds at issue. A true and correct copy of this email is attached hereto as Ex. D at 5.

7 12. I again requested Amazon engage with the materials I had provided three days
8 earlier instead of discussing new frameworks. I also identified two errors I had made in my
9 initial list of entries I sent to Amazon that were now addressed in the Adjusted Amount
10 column of Ex. B. This adjustment reduced the amount to which PersonalWeb objects by
11 approximately \$136,000. A true and correct copy of this email is attached hereto as Ex. D
12 at 4.

13 13. Today, Amazon responded with additional legal arguments and reiterated its
14 offer to negotiate frameworks instead of numbers. A true and correct copy of this email is
15 attached hereto as Ex. D at 3.

16 14. I responded, stating that Amazon had not allowed for sufficient time to
17 negotiate for a new framework and, given its delay in responding to PersonalWeb’s list it
18 requested, there may be insufficient time to negotiate any stipulation before the
19 Supplemental Response was due. A true and correct copy of this email is attached hereto as
20 Ex. D at 2-3.

21 15. In a crossing email, Amazon responded to its own email offering to discuss
22 either of Amazon’s proposals. Amazon also requested that if the Parties were unable to
23 settle this today, that I include this email discussion with today’s submission. A true and
24 correct copy of this email is attached hereto as **Exhibit E** at 1. Due to the crossing emails,
25 the email in Ex. E is not included in the full chain in Ex. D, and as such I have only included
26 its first page to avoid a duplicative record.

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McCORMICK DECLARATION IN SUPPORT OF SUPPLEMENTAL RESPONSE

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LEWIS  **ROCA**

1 16. In our final discussion, I reiterated to Amazon that I never disputed that
2 Amazon had made an offer, just that it was an unworkable offer given the time constraints
3 imposed by Amazon’s tardy response to PersonalWeb’s list of contested entries. A true and
4 correct copy of this email is attached hereto as Ex. D at 1.

5 17. I was unable to reach my client until approximately 3pm PST today.
6 PersonalWeb was unable to decide on Amazon’s offer on such short notice but wants to
7 continue discussions to potentially reach a mutually agreeable dollar amount following this
8 filing.

9 I declare under penalty of perjury under the laws of the United States that the foregoing
10 is true and correct. Executed in Pima County, Arizona on this day, November 21, 2023.

11 Dated this 21st day of November, 2023. LEWIS ROCA ROTHGERBER CHRISTIE LLP

12
13 By: /s/ Patrick Emerson McCormick
14 Robert M. Charles, Jr.
15 Patrick Emerson McCormick
16 *Attorneys for*
17 *PersonalWeb Technologies, LLC*
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McCORMICK DECLARATION IN SUPPORT OF SUPPLEMENTAL RESPONSE

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