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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

IN RE PERSONALWEB
 TECHNOLOGIES, LLC, ET., AL.,
 PATENT LITIGATION,

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

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

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

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

Plaintiffs,

v.

PERSONALWEB TECHNOLOGIES,
 LLC, et al.,

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**

PERSONAL WEB TECHNOLOGIES,
 LLC, et al.,

Plaintiffs

v.

TWITCH INTERACTIVE, INC.,

Defendant.

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

LEWIS  **ROCA**

DECLARATION OF PATRICK EMERSON MCCORMICK

I, Patrick Emerson McCormick, am an associate at the law firm of Lewis Roca Rothgerber Christie LLP, counsel of record for PersonalWeb Technologies, LLC. I submit this declaration in support of PersonalWeb's Supplemental Response to the Further Supplemental Fees Request of Amazon.com, Inc., Amazon Web Services, Inc., and Twitch Interactive, Inc. I have personal knowledge of the facts stated herein, and could testify competently to them if called to do so.

1. Attached hereto as **Exhibit A** are excerpts from Dkts. 873-4 and 874-2, the entries from Amazon's counsel from Fenwick & West and Steptoe & Johnson, respectively. On these excerpts, I have highlighted the entries PersonalWeb challenges as unrecoverable by Amazon on the ground that they were incurred in Amazon's pursuit of alter ego liability against third parties unnamed in this action.

2. Attached hereto as **Exhibit B** is a spreadsheet containing only the entries from Ex. A that I highlighted. I added a new column, "Adjusted Amount," to reflect each entry's total based on Amazon's reduced hourly rates as identified in Dkt. 873 at 6-7. The Adjusted Amount column also removes fees incurred by any timekeeper that billed fewer than 30 hours and for which Amazon does not seek to recover, as identified in Dkt. 873, § 11. The adjusted total that PersonalWeb seeks to exclude from Amazon's supplemental attorneys' fees award on the ground that they were incurred in pursuit of alter ego claims against unnamed third parties is \$566,411.51.

3. On November 10, 2022, I received an email from Amazon's counsel following our telephonic meet and confer in which Amazon's counsel outlined the priority categories Amazon sought to obtain from PersonalWeb's prior counsel, Stubbs Alderton & Markiles. A true and correct copy of this email is attached hereto as **Exhibit C**.

4. On Friday, November 17, 2023, I received an email from Amazon's counsel requesting the entries PersonalWeb sought to exclude from Amazon's supplemental attorneys' fees award as counsel needed "some lead time to get a timely response from

MCCORMICK DECLARATION IN SUPPORT OF SUPPLEMENTAL RESPONSE

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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McCORMICK DECLARATION IN SUPPORT OF SUPPLEMENTAL RESPONSE

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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McGORMICK DECLARATION IN SUPPORT OF SUPPLEMENTAL RESPONSE

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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