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12 TWITCH INTERACTIVE, INC.

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN JOSE DIVISION

16 IN RE: PERSONALWEB TECHNOLOGIES,
17 LLC ET AL., PATENT LITIGATION,

18 AMAZON.COM, INC., and AMAZON WEB
19 SERVICES, INC.,

Plaintiffs,

v.

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

Defendants.

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

Plaintiffs,

v.

26 TWITCH INTERACTIVE, INC.,

27 Defendant.

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

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

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

**DECLARATION OF TODD R.
GREGORIAN IN SUPPORT OF
RESPONSE OF AMAZON.COM, INC.,
AMAZON WEB SERVICES, INC., AND
TWITCH INTERACTIVE, INC. TO
PERSONALWEB'S SUPPLEMENTAL
OPPOSITION TO MOTION FOR
FURTHER SUPPLEMENTAL FEES**

FENWICK & WEST LLP
ATTORNEYS AT LAW

1 I, Todd R. Gregorian, declare as follows:

2 1. I am a partner at the law firm Fenwick & West, LLP, attorney of record for
3 Amazon.com, Inc., Amazon Web Services, Inc., and Twitch Interactive, Inc. (collectively
4 “Amazon”). I submit this declaration in support of the Response of Amazon.com, Inc., Amazon
5 Web Services, Inc., and Twitch Interactive, Inc. to PersonalWeb’s Supplemental Opposition to
6 Motion for Further Supplemental Fees filed concurrently with this document. I have personal
7 knowledge of the facts set forth herein.

8 2. I have reviewed PersonalWeb’s supplemental opposition (Dkt. 910) and supporting
9 papers identifying disputed billing entries, including its claim that:

- 10 • “PersonalWeb has highlighted the entries from Amazon’s counsel that were
11 performed in pursuit of Amazon’s alter ego theory against PersonalWeb’s
12 alleged alter egos.” (*Id.* at 2:6-8.)
- 13 • “PersonalWeb has erred on the side of caution to only highlight those entries
14 that are clearly tied to Amazon’s alter ego claims.” (*Id.* at 2:12-13.)

15 3. PersonalWeb had reason to know before filing its supplemental opposition that these
16 claims are incorrect. The overwhelming number of disputed billing entries concern work and fees
17 incurred for judgment enforcement generally, including locating PersonalWeb assets, the
18 relationships among and any transfers to and from PersonalWeb and other entities or persons, and
19 other similar information. Amazon sought to identify assets hidden by PersonalWeb’s principals
20 from the receiver and to identify fraudulent transfers. It continues to explore any available method
21 to enforce the judgment, and the suggestion that this work pertains exclusively to an “alter ego”
22 theory—let alone to a separate alter ego lawsuit that did not exist and was only filed by
23 PersonalWeb’s principals against Amazon after most of that work was already performed—is not
24 true.

25 4. To the extent Amazon intended to raise alter ego issues, it intended to do so in this
26 case, as a motion to add alter egos to the district court judgment under Federal Rules of Civil
27 Procedure 69 and California Civil Code § 187. My conversations with counsel indicate that
28

1 PersonalWeb’s principals filed a state court alter ego declaratory judgment action specifically to
2 prevent that from happening. (*See* Dkt. 903-1, ¶¶ 3-6.)

3 5. Even the text that PersonalWeb quoted to the Court in support of its position shows
4 that Amazon was engaged in a general judgment enforcement effort: “Amazon must understand
5 the identities of persons and entities involved for the purpose of establishing potential alter ego
6 relationships *and fraudulent transfers*.” (*Id.* at 3:26-4:1 (emphasis supplied) (citing Dkt. 779-4 at
7 3-4, 7, 9-10, 16-17, et al.).)

8 6. That Amazon has explored any available method to enforce the judgment is borne
9 out in the discovery requests underlying the fees that PersonalWeb has asked the Court to exclude:

10 a. *Post-judgment interrogatories and requests for production on the judgment*
11 *debtor PersonalWeb Technologies LLC (“PersonalWeb”)* (inclusive of documents in the
12 possession of its litigation counsel Stubbs Alderton & Markiles LLP (“Stubbs”)). (Dkts. 689-1 &
13 689-2.) For example, Interrogatory No. 1 states: “Identify all accounts (including but not limited
14 to bank accounts, credit card accounts, brokerage accounts, investment accounts, retirement
15 accounts, pension accounts, lease accounts, internet or other online service accounts, utility
16 accounts, alarm or security service accounts, cable or satellite television accounts, domain name
17 accounts, mortgages, lines of credit, real property, physical assets, cash assets, crypto currency or
18 crypto assets) associated with PersonalWeb.” (Dkt. 689-1 at 6.) Interrogatory No. 2 states:
19 “Identify all bank accounts owned or controlled by PersonalWeb or used for its benefit.” (*Id.*) And
20 Interrogatory No. 3 states: “Identify all physical assets owned or otherwise controlled by
21 PersonalWeb (including, but not limited to furniture, electronics, computer hardware, real property,
22 and automobiles) at any time from January 1, 2018 to the present, including: (a) the current owner
23 of the assets and (b) all circumstances regarding the receipt, acquisition, transfer or disposition of
24 the asset, including the amount of any consideration exchanged for the assets, the date of the
25 exchanges, and the parties to the exchanges.” (*Id.*) Request No. 1 seeks: “All documents
26 concerning PersonalWeb’s corporate charters, incorporation, qualifications to do business, by-laws,
27 and minutes (including but not limited to board and committee minutes and resolutions).” (Dkt.
28 689-2 at 5.) Request No. 9 seeks: “All documents concerning PersonalWeb’s parent companies,

1 subsidiary companies, affiliated companies, companies under common ownership, predecessors in
2 interest, and successors in interest.” (*Id.* at 6.) And Request No. 20 seeks: “All documents
3 concerning payments or transfers of anything of value by PersonalWeb to any person or entity on
4 behalf of, or for the benefit of, any person or entity other than PersonalWeb.” (*Id.* at 8.)

5 b. *Post-judgment subpoena including requests for production on Mr. Michael*
6 *Weiss, president of PersonalWeb. (Exhibit A.)* These requests concern judgment enforcement
7 generally and pertain to a range of theories and methods. For example, Request No. 15 seeks: “All
8 documents and communications between You and any other person or entity concerning any of the
9 attorney fee awards or the judgment against PersonalWeb in the Action, including but not limited
10 to communications about the potential for such award(s), Amazon’s attempt(s) to seek such
11 award(s), or any actions taken by You in anticipation of, or which relate in any other way to, such
12 award(s).” (*Id.* at 13.) Request No. 32 seeks: “All documents relating to payments made by You
13 or PersonalWeb to lawyers, accountants, or other corporate service providers in excess of \$100.00
14 since March 1, 2021.” (*Id.* at 16.) And Request No. 34 seeks: “All documents and communications
15 relating to any obligations incurred by PersonalWeb from You, or transfers from PersonalWeb to
16 You.” (*Id.*)

17 c. *Post-judgment subpoenas including requests for production on third-parties*
18 Brilliant Digital Entertainment, Inc. (“BDE”), Claria Innovations, LLC (“Claria”), Europlay
19 Capital Advisors, LLC (“Europlay”), and Monto Holdings Pty Ltd. (“Monto”). (Dkts. 733-1, 733-
20 2, 733-3, 771-1.) The requests for production served on each of these entities are virtually identical
21 except for variations in the recipient (target) entity specified in the requests. Again, they seek
22 information relevant to judgment enforcement generally. (*See, e.g.*, Dkt. 733-1.) For example,
23 Request No. 33 seeks: “All documents relating to payments made by You or PersonalWeb to
24 lawyers, accountants, or other corporate service providers in excess of \$100.00 since March 1,
25 2021.” (*Id.* at 14.) Request No. 38 seeks: “All documents and communications relating to any
26 additional obligations incurred by PersonalWeb from you, or transfers from PersonalWeb to you,
27 not otherwise covered by Request Nos. 35–37.” (*Id.*) And Request No. 41 seeks: “All documents
28 relating to Your financial relationship with PersonalWeb, [any of the other third-parties], SAM, or

1 SAM Ventures, including loans, write-offs or debt forgiveness, advances, any sales for less than
2 fair market value, or any payments made from December 31, 2019 through the present.” (*Id.* at 15.)

3 7. There were substantial other hurdles and difficulties in obtaining the foregoing post-
4 judgment discovery from PersonalWeb (including Stubbs), Mr. Weiss, and the third-parties run by
5 PersonalWeb’s principals, including filing several motions to compel. (*See* Dkts. 738, 793, 799,
6 816, 836-1, 850.)

7 8. PersonalWeb and Stubbs made about 20 document productions comprising well over
8 1,000,000 pages of documents. And the third-parties made over 20 document productions
9 comprising about 65,000 pages for BDE, about 1,500 pages for Claria, nearly 300,000 pages for
10 Europlay, and about 5,000 pages for Monto. Mr. Weiss and the receiver for PersonalWeb also
11 produced documents. Reviewing these documents was a massive and resource-intensive
12 undertaking. Many of the disputed billing entries concern this document review that, again, was
13 directed to judgment enforcement including searches for hidden assets, to uncover fraudulent
14 transfers, and understand corporate and financial background of PersonalWeb and its related entities.

15 9. To this day, Amazon remains concerned that cash or assets belonging to
16 PersonalWeb were deliberately and wrongfully kept out of the receivership to manufacture
17 PersonalWeb’s insolvency and prevent enforcing the judgment. As recently as July of this year
18 Amazon was still seeking some meaningful verification or confirmation that this did not occur. For
19 example, counsel for Amazon asked counsel to have Mr. Kevin Bermeister, the primary principal
20 for PersonalWeb and its non-executive chairman, represent in a sworn declaration that the
21 California state receiver possesses all assets of PersonalWeb and that there are no other assets
22 except those identified in the receiver reports. A true and accurate copy of the last letter requesting
23 such verification or confirmation by Mr. Bermeister, dated July 10, 2023, is attached as **Exhibit B**.
24 Mr. Bermeister has not provided any such declaration.

25 10. The Court at the hearing asked whether Amazon has requested its fees in the
26 California receivership action. There, Amazon asserted causes of action for judgment enforcement,
27 equitable subordination, and equitable accounting, to preserve rights to that relief. (Dkt. 871-7 at
28 677-82.) Amazon’s complaint included a prayer for attorney fees to preserve its rights. But even

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