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16 **UNITED STATES DISTRICT COURT**
 17 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

19 BLACKBERRY LIMITED, a Canadian
 corporation,
 20
 Plaintiff,
 21
 vs.
 22 TWITTER, INC., a Delaware
 corporation,
 23
 Defendant.
 24

CASE NO. 2:19-cv-01444-GW (KSx)
**SUPPLEMENTAL BRIEF
 REGARDING THE IMPACT OF
 THE COURT'S DETERMINATION
 OF PATENT-INELIGIBILITY IN
 THE FACEBOOK CASE ON
 TWITTER'S PENDING MOTION
 TO DISMISS**

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1 Summary judgment of patent-ineligibility on the independent claims of the
2 '351 and '929 Patents in *Facebook* will collaterally bar BlackBerry from pursuing
3 any other outcome here. Accordingly, if Facebook and Snap's motion is granted, the
4 causes of action as to the '351 and '929 Patents should be dismissed with prejudice.

5 LEGAL STANDARD

6 Collateral estoppel serves to “preclude parties from contesting matters that they
7 have had a full and fair opportunity to litigate.” *Montana v. United States*, 440 U.S.
8 147, 153–54 (1979). With respect to patent-ineligibility, “once the claims of a patent
9 are held invalid in a suit involving one alleged infringer, an unrelated party who is
10 sued for infringement of those claims may reap the benefit of the invalidity decision
11 under principles of collateral estoppel.” *Mendenhall v. Barber-Greene Co.*, 26 F.3d
12 1573, 1577 (Fed. Cir. 1994).

13 In patent cases, collateral estoppel is generally governed by regional circuit
14 law. *Aspex Eyewear, Inc. v. Zenni Optical Inc.*, 713 F.3d 1377, 1380 (Fed. Cir. 2013).
15 Under Ninth Circuit law, collateral estoppel applies when: “(1) the issue necessarily
16 decided at the previous proceeding is identical to the one which is sought to be
17 relitigated; (2) the first proceeding ended with a final judgment on the merits; and (3)
18 the party against whom [estoppel] is asserted was a party or in privity with a party at
19 the first proceeding.” *Paulo v. Holder*, 669 F.3d 911, 917 (9th Cir. 2011). Courts
20 also consider whether the estopped party had a “full and fair opportunity to litigate
21 the issue.” *Oyeniran v. Holder*, 672 F.3d 800, 806 (9th Cir. 2012).

22 ARGUMENT

23 **I. Collateral Estoppel Precludes Further Litigation of the '351 and '929 Patents**

24 A judgment of patent-ineligibility as to U.S. Patent Nos. 8,296,351 (the “'351
25 Patent”) and 8,676,929 (the “'929 Patent”) will estop BlackBerry from asserting those
26 patents here. It will have litigated, and lost, the issue.

27 *First*, the identity requirement is easily satisfied. The same two patents are in
28 dispute: the '351 and '929 Patents. The same legal question is presented and central

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