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UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA
 SOUTHERN DIVISION

SQUARE ENIX, INC., and SQUARE ENIX LLC, Plaintiffs, v. UNILOC 2017 LLC, Defendant.	Case No. 8:19-cv-01061-DOC-KES Hearing: December 4, 2019, 3 p.m. Judge: David O. Carter
UBISOFT, INC., Plaintiff, v. UNILOC 2017 LLC, Defendant.	Case No. 8:19-cv-01062-DOC-KES Hearing: December 4, 2019, 3 p.m. Judge: David O. Carter

<p>1 UNILOC 2017 LLC, 2 Plaintiff, 3 v. 4 INFOR, INC., 5 Defendant.</p>	<p>Case No. 8:19-cv-01150-DOC-KES Hearing: December 4, 2019, 3 p.m. Judge: David O. Carter</p>
<p>6 UNILOC 2017 LLC, 7 Plaintiff, 8 v. 9 NETSUITE, INC., 10 Defendant.</p>	<p>Case No. 8:19-cv-01151-DOC-KES Hearing: December 4, 2019, 3 p.m. Judge: David O. Carter</p>

UNILOC 2017'S SUPPLEMENTAL RULE 26(f) REPORT

12 Uniloc 2017 LLC, the patent owner, is the plaintiff in two of the above
13 actions; in the other two, which are declaratory judgment actions, it is the defendant.
14 To avoid confusion, Uniloc 2017 will refer to the other parties in these actions as the
15 "Accused Infringers."

16 A Joint 26(f) Report had been timely filed in each action. On November 20,
17 each of the Accused Infringers filed, in its respective action, an Amended or a
18 Supplemental 26(f) Report, expressing its views on how the action should proceed,
19 now that all four actions are assigned to the same judge. This Supplemental Report,
20 in turn, gives Uniloc 2017's views on how each of these actions should proceed.

21 **1. The *Square Enix* action should remain separate.**

22 In the *Square Enix* action, different counsel represents Uniloc 2017. They
23 request that action be kept separate from the other three actions.

24 In *Square Enix*, Uniloc 2017 has filed a motion to dismiss because of the
25 pendency of a competing action in the Eastern District of Texas, involving different
26 parties. Additionally, that case presents the issue as to which Square Enix-related
27 entities should be made parties in this Court, which needs to be resolved before that

1 The other three actions have no such threshold issues, and are ready to move
2 forward expeditiously.

3 **2. Overview of the other three actions.**

4 Uniloc 2017 first brought suit on the patents-in-suit against Ubisoft and
5 NetSuite in July/August 2016, and against Infor in May 2017. In the normal course,
6 those actions would have gone to judgment well before now. But they were waylaid:
7 first, by venue issues raised by *TC Heartland LLC v. Kraft Foods Grp. Brands LLC*,
8 137 S.Ct. 1514 (2017), and secondly, by a district court decision, since reversed, that
9 certain patent claims were ineligible for patenting. *Uniloc USA, Inc. v. ADP LLC*,
10 279 F.Supp. 736 (E.D. Tex. 2017).

11 Each of those Accused Infringers has thus now been aware of the patents for
12 at least 2-3 years, as well as aware of the extent and theory of the infringement
13 allegations against them. And each would have long since formulated its defenses.
14 So Uniloc 2017 believes it appropriate to move those three actions forward
15 expeditiously.

16 Uniloc 2017 thus suggests dispensing with some of the preliminary steps that
17 might be appropriate to a first-filed patent action, such as formal infringement and
18 invalidity contentions.

19 **3. Trial Date.**

20 Uniloc 2017 requests the Court set a trial date for at least one of these cases
21 before the end of 2020. Uniloc 2017 suggests first *Ubisoft*, and then *Netsuite* and
22 *Infor*. (Judge Guilford had already set a November 10, 2020 trial date in *Ubisoft*.) If
23 the action against that first Accused Infringer is resolved, by settlement or otherwise,
24 then the next Accused Infringer would fill that trial slot.

25 **4. Claim Construction.**

26 In an action filed in the Eastern District of Texas, *Uniloc USA, Inc. v. AVG*
27 *Technologies USA, Inc.*, the district court had issued an interlocutory claim

28 construction order in 2017, and is currently considering a motion by Uniloc 2017 to

1 reconsider certain of those rulings, as erroneous. Although that court's final claim
 2 construction ruling would not bind this Court, Uniloc 2017 believes that court's final
 3 ruling, when it issues, would be a useful starting point when this Court itself
 4 construes the claims.

5 Netsuite and Infor have filed motions for summary judgment (which they have
 6 labeled as Motions to Dismiss, to evade this Court's rule limiting each party to one
 7 summary judgment motion) arguing the Texas court's interlocutory construction
 8 creates issue preclusion. If those Accused Infringers re-notice those motions, this
 9 Court should stay them, pending a final claim construction ruling in the Texas
 10 action.

11 As to procedure, in these three actions Uniloc 2017 opposes the imposition of
 12 the local patent rules of other districts, such as those of the Northern District of
 13 California. Implementing the Northern District rules would drag the claim
 14 construction process out over six months, and simply retrace the path already trod in
 15 Texas, to no apparent purpose.

16 Finally, Uniloc 2017 requests this Court defer its own consideration of claim
 17 construction until its consideration of motions for summary judgment, where only
 18 issues relevant to the outcome would be fully briefed.

19 In the meantime, the parties can otherwise get the cases ready for trial.

20 **5. Schedule.**

21 The Federal and Local Rules, and this Court's Standard Orders, require the
 22 parties to suggest certain dates. Here are Uniloc 2017's suggestions for *Ubisoft* (or
 23 whichever action the Court selects to try first):

24 Fact discovery cutoff	6/30/20
25 Last day to serve initial expert reports	7/15/20
26 Last day to notice motions for hearing	9/21/20
27 Final pretrial conference	10/26/20
28 Trial date	11/10/20

1 (Judge Guilford had scheduled *Ubisoft* for trial November 10, so the parties were
2 already preparing to that schedule.) All of the above dates, except for the dates for
3 pretrial conference and trial, could be the same for all three actions. Once the Court
4 sets these dates, other dates can be calculated by rote application of the rules, or this
5 Court’s Standard Orders.

6 **6. ADR**

7 Uniloc 2017 asks this Court to order the parties to mediate before March 31,
8 2020 before a neutral selected by the Court’s Mediation Panel.

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11 Dated: November 26, 2019

Respectfully submitted,

12
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22
23 ATTESTATION OF FILER

24 I hereby attest that all other signatories listed, and on whose behalf the filing is
submitted, concur in the filing’s content and have authorized the filing.

25 /s/ James J. Foster
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