Aaron S. Jacobs (Cal. Bar No. 214953)
ajacobs@princelobel.com
PRINCE LOBEL TYE LLP
One International Place, Suite 3700
Boston, MA 02110
Tel: (617) 456-8000

Matthew D. Vella (Cal. State Bar No. 314548)
mvella@princelobel.com
PRINCE LOBEL TYE LLP
357 S. Coast Highway, Suite 200
Laguna Beach, CA 92651
Tel: (949) 232-6375

Attorneys for Plaintiff

Tharan Gregory Lanier
tglanier@jonesday.com
Michael C. Hendershot (State Bar No. 211830)
mhendershot@jonesday.com
JONES DAY
1755 Embarcadero Road
Palo Alto, CA 94303
Tel: (650) 739-3939

Attorneys for Defendant

***(ADDITIONAL COUNSEL IN SIGNATURE BLOCKS)***

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

UNILOC 2017 LLC,

Plaintiff,

v.

GOOGLE LLC,

Defendant.

Case Nos.: 4:20-cv-04355-YGR
4:20-cv-05330-YGR; 4:20-cv-05333-YGR;
4:20-cv-05334-YGR; 4:20-cv-05339-YGR;
4:20-cv-05340-YGR; 4:20-cv-05341-YGR
4:20-cv-05342-YGR; 4:20-cv-05343-YGR
4:20-cv-05344-YGR; 4:20-cv-05345-YGR
4:20-cv-05346-YGR

**JOINT CASE MANAGEMENT STATEMENT & [PROPOSED] ORDER**

Uniloc 2017 LLC ("Uniloc") and Google LLC ("Google"), the parties to the above-captioned actions, jointly submit this JOINT CASE MANAGEMENT STATEMENT & PROPOSED ORDER pursuant to the Standing Order for All Judges of the Northern District of California and Civil Local Rule 16-9.

The above-captioned actions were all originally filed in the Eastern District of Texas in two waves, the first in November 2018 and the second between late December 2018 and early January 2019. Claim construction orders issued in the Wave 1 cases and claim construction briefing completed in the Wave 2 cases. Following the Federal Circuit's order in *In re Google LLC*, Case No. 2019-126, 2020 WL 728165 (Fed. Cir. Feb. 13, 2020), the Eastern District of Texas stayed the Wave 2 cases to allow the parties to further address the question of transferring the cases, but left the Wave 1 cases to continue. In June 2020, the Eastern District of Texas ordered all of the cases transferred to this District.

This Court related the above-captioned actions in August 2020 and instructed the parties to submit a comprehensive Case Management Conference Statement for all of the cases.

## 1. Jurisdiction & Service

*The basis for the court's subject matter jurisdiction over plaintiff's claims and defendant's counterclaims, whether any issues exist regarding personal jurisdiction or venue, whether any parties remain to be served, and, if any parties remain to be served, a proposed deadline for service.*

This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 1338(a). There are no disputes regarding venue, and no parties that remain to be served.

## 2. Facts

*A brief chronology of the facts and a statement of the principal factual issues in dispute.*

### A. Plaintiff's Statement

As noted above, these twelve cases between Uniloc and Google were all originally filed in the Eastern District of Texas in two waves, the first in November 2018 and the second between late December 2018 and early January 2019. As Google acknowledged, "each case [] asserts different patents and generally implicates different accused technologies . . . ." -4355

Case, Dkt No. 325 (Google's Motion to Relate) at 2. This bears repeating: Google itself admitted that the cases are unrelated and have different accused technologies. Indeed, none of the patents are "related" in the patent sense.

| Cases | | | | |
|---|---|---|---|---|
| **Wave** | **N.D. Cal. Case No.[1]** | **E.D. Tex. Case No.** | **U.S. Patent No.[2]** | **Title** |
| **1** | -4355 | -504 | 8,949,954 | Customer notification program alerting customer-specified network address of unauthorized access attempts to customer account |
| | -5330 | -491 | 6,473,114 | Method and system for indicating change of speaker in a videoconference application |
| | -5333 | -492 | 6,952,450 | Unequal error protection of video based on motion vector characteristics |
| | -5334 | -496 | 6,349,154 | Method and Arrangement for creating a high-resolution still picture |
| | -5339 | -499 | 8,194,632 | Method for establishing network connections between stationary terminals and remote devices through mobile devices |
| | -5340 | -501 | 6,452,515 | Video encoder and decoder |
| | -5341 | -502 | 8,407,609 | System and method for providing and tracking the provision of audio and visual presentations via computer network |
| **2** | -5342 | -548 | 6,253,201 | Scalable solution for image retrieval |
| | -5343 | -550 | 6,628,712 | Seamless switching of MPEG video streams |
| | -5344 | -551 | 7,012,960 | Method of transcoding and transcoding device with embedded filters |
| | -5345 | -552 | 9,564,952 | Near field authentication through communication of enclosed content sound waves |
| | -5346 | -553 | 6,366,908 | Keyfact-based text retrieval system, keyfact-based text index method, and retrieval method |

[1] For ease of reference, the cases are referred to by their non-placeholder digits, such as "the -4355 Case" instead of "Case No. 4:20-cv-04355-YRG." The -4355 Case had been the "-504 Case," *i.e.*, Case No. 2:18-cv-504-JRG-RSP, in the Eastern District of Texas.

[2] For ease of reference, the patents are hereafter referred to by their last three digits.

Additional information about each of the cases, patents, accused products and IPRs may be found in the Table at Appendix 1, and Uniloc's summary of the individual actions in Appendix 2.

All of the Wave 1 and Wave 2 cases had discovery set to close on March 30, 2020; opening expert reports were also due on March 30, 2020; and jury selection was set to commence on August 17, 2020. But, the COVID-19 pandemic and a variety of discovery disputes forced the parties to pass the March 30, 2020, discovery and expert report deadlines without actually finishing discovery and serving expert reports in the Wave 1 cases. On March 16, 2020, Uniloc filed in each of the Wave 1 cases an emergency motion to modify the scheduling order as a result of COVID-19. *See, e.g.*, -493 Case, Dkt. No. 205.[3,4] On March 19, 2020, the Eastern District of Texas held an informal telephone conference with counsel for both sides regarding Uniloc's emergency motion. *See* -493 Case, Dkt. No. 209. At the conference, the parties agreed there was outstanding discovery to complete after March 30, 2020. The Eastern District of Texas directed the parties to exchange, by close of business on March 20, 2020, a list of all remaining discovery the parties sought. *Id.* The parties filed a joint notice on March 26, 2020. *See* -493 Case, Dkt. No. 216. Both parties' proposals acknowledged the need to conduct depositions, source code review, and expert discovery after March 30, 2010. *Id*. On March 27, 2020, the Eastern District of Texas entered an order that applied to all Wave 1 cases, directing the parties to file "non-deposition" discovery motions by April 1, 2020 and deposition-related discovery motions by April 15, 2020. -493 Case, Dkt. No. 218. Both parties filed motions to compel written discovery on April 1, 2020. The Eastern District of Texas held hearings and issued rulings on those motions. Uniloc does not know if Google produced all documents it intended to produce, to comply with the Eastern District's rulings, before transfer.

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[3] As will be discussed below, the Wave 2 cases were already stayed at this point.

[4] The Eastern District of Texas issued its orders regarding the emergency motion only in the -493 Case—a Wave 1 case that was not transferred to this Court—but stated that the orders applied to all Wave 1 cases. As such, the filings and orders of the Eastern District of Texas related to this motion are attached to this Statement as exhibits.

During hearings on some of Uniloc's motions to compel, Google made representations that it had made a reasonable search for certain documents and produced them. The Eastern District accepted some of these representations with the caveat that Uniloc could test the veracity of these representations through depositions.

On April 15, both parties filed motions for protective orders to limit deposition topics and the number of hours Rule 30(b)(6) witnesses would be deposed. The motions for protective order were filed by both parties in response to Rule 30(b)(6) deposition notices previously served. On April 20, 2020, the Eastern District of Texas began holding hearings on the parties' motions for protective orders relating to the Rule 30(b)(6) notices. *See* -493 Case, Dkt. Nos. 248, 253, 254. During those hearings, the Eastern District of Texas ruled on objections to deposition topics and the number of hours the parties would be allowed to depose certain 30(b)(6) witnesses. It also indicated that Uniloc would be allowed to have in-person depositions of Google's witnesses, either during discovery or as trial-depositions. Prior to transfer, the parties were in the process of scheduling and conducting depositions (consistent with the Eastern District's rulings on the motions for protective orders) and conducting source code review. While it was understood that a new expert report deadline would be set, the cases were transferred before a new deadline was set.

Google (and others) petitioned for *inter partes* review ("IPR") of most, but not all, of the patents. Some of these IPRs have been instituted, other petitions are pending and several have been denied. The parties agreed to stay most of the cases in which IPRs were thus far instituted. In addition, in one case the parties stipulated to summary judgment of invalidity based upon the Eastern District of Texas's claim construction. Specific information about IPRs and the status of each case may be found in the table in Appendix 1, and the summaries of each case in Appendix 2.

Google now asks the Court to stay *all* of the cases because *some* of the cases are subject to pending IPR petitions, a position it eschewed in the Eastern District of Texas. Google's new tactic is improper for several reasons. First, of course, each patent is its own, separate property right. Second, each case is its own, separate case. Third, as Google admitted, the patents are

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