IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

UNILOC USA, INC., et al,	§	
Plaintiffs,	§	
	§	Case No. 2:16-cv-00393-RWS
v.	§	LEAD CASE
	§	
AVG TECHNOLOGIES USA, INC.,	§	
BITDEFENDER LLC,	§	Case No. 2:16-cv-00394-RWS
PIRIFORM, INC.,	§	Case No. 2:16-cv-00396-RWS
UBISOFT, INC.,	§	Case No. 2:16-cv-00397-RWS
KASPERSKY LAB, INC.,	§	Case No. 2:16-cv-00871-RWS
SQUARE ENIX, INC.,	§	Case No. 2:16-cv-00872-RWS
Defendants.		

UNILOC USA, INC., et al,	§	
Plaintiffs,	§	
	§	Case No. 2:16-cv-00741-JRG
v.	§	LEAD CASE
	§	
ADP, LLC,	§	
BIG FISH GAMES, INC.,	§	Case No. 2:16-cv-00858-JRG
BLACKBOARD, INC.,	§	Case No. 2:16-cv-00859-JRG
BOX, INC.,	§	Case No. 2:16-cv-00860-JRG
ZENDESK, INC.,	§	Case No. 2:16-cv-00863-JRG
Defendants.		

JOINT CLAIM CONSTRUCTION AND
PREHEARING STATEMENT PURSUANT TO P.R. 4-3

Pursuant to P.R. 4-3 and the Court's Docket Control Order, Plaintiffs, Uniloc USA, Inc.

and Uniloc Luxembourg, S.A. (collectively "Uniloc"), and Consolidated Defendants ADP, LLC

("ADP"), Big Fish Games, Inc. ("Big Fish"), Bitdefender LLC ("Bitdefender"), Blackboard, Inc.

("Blackboard"), Box, Inc. ("Box"), Kaspersky Lab, Inc. ("Kaspersky"), Piriform, Inc.

("Piriform"), Square Enix, Inc. ("Square Enix"), Ubisoft, Inc. ("Ubisoft") and Zendesk, Inc.

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("Zendesk") (collectively, "Defendants"), submit the parties' Joint Claim Construction and Prehearing Statement.

I.   P.R. 4-3(a): AGREED CLAIM CONSTRUCTIONS

There are four patents in suit, U.S. Patent Nos. 7,069,293 (the "'293 patent"); 6,728,766 (the "'766 patent"); 6,510,466 (the "'466 patent"); and 6,324,578 (the "'578 patent")[1] (collectively "patents-in-suit"). The parties have reached agreement as to the construction of the following claim terms/phrases recited in one or more of the patents-in-suit:

	CLAIMS	TERMS AND PHRASES	AGREED CONSTRUCTION
1.	'293 patent claims 1, 12, 17	"a segment configured to initiate registration operations"	portion of the file packet that includes software to initiate registration operations
2.	'766 patent claims 1, 7, 13	"license management policy information"	a set of rules that determine whether users can obtain a license to use a particular application
3.	'766 patent claims 1, 7, 13	"license management server"	a server that determines license availability based on license management policy information
4.	'293 patent claims 1, 12, 17	"make the application program available for use"	make the application available for access and download, responsive to user requests

In addition, the parties agree that some of the claim terms in dispute are drafted in "means-plus-function" format and are thus subject to construction according to 35 U.S.C. §112, ¶ 6. The parties have provided competing identifications of specific structure for each of these terms, and are continuing to work in good faith to resolve their disagreements. At this time, the parties do not believe that the Court needs to address these disagreements as part of the claim

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[1] Only the'466, '578, and '293 patents are asserted against Big Fish, Blackboard, Box, and Zendesk. These defendants join in this statement only with respect to the patents on which they have been sued. Should Uniloc later assert other patents against any of these defendants, they may seek to address claim construction regarding the added patents at an appropriate time.

construction process. If the parties are unable to reach further agreement concerning the construction of any of these remaining claim terms, phrases, or clauses, they will promptly supplement this Joint Claim Construction and Prehearing Statement.

II.   P.R. 4-3(b): DISPUTED CLAIM CONSTRUCTIONS

Pursuant to P.R. 4-3(b), the parties' proposed constructions of disputed claim terms, phrases, or clauses are reflected in the tables attached as Exhibits A, B and C as listed below.

The chart attached as **Exhibit A** to this Joint Claim Construction Statement contains the disputed claim terms, phrases and clauses.

The chart attached as **Exhibit B** to this Joint Claim Construction Statement contains Uniloc's identification of intrinsic and extrinsic evidence supporting its proposed constructions.

The chart attached as **Exhibit C** to this Joint Claim Construction Statement contains Defendants' identification of intrinsic and extrinsic evidence supporting its proposed constructions. Defendants rely on the intrinsic evidence as a whole relating to the patents-in-suit, including the claim language, the specification and figures, the file history, and the references cited on the face of the patent. In Exhibit C, Defendants cite to specific figures and text as examples of intrinsic evidence to support proposed constructions to particular claim elements but further state that the cited evidence is applicable to all claim terms, phrases, and clauses identified in Exhibit A.

Exhibit D contains copies of the preliminary extrinsic evidence that the Defendants' anticipate relying on.

The parties expressly reserve the right to rely on any intrinsic and extrinsic evidence identified by another party, and any evidence obtained, or that may be obtained, through claim

construction discovery. The parties expressly reserve the right to amend, correct, or supplement

their claim construction positions and supporting evidence in response to any change of position

by another party, in response to information received through claim construction discovery,

including inventor depositions and expert depositions concerning claim construction

declarations, or for other good cause.

III.   P.R. 4-3(c): LENGTH OF CLAIM CONSTRUCTION HEARING

The parties anticipate that the claim construction hearing will require a total of four

hours. This would allow each side two hours to argue the disputed terms, phrases, and clauses.

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IV.   P.R. 4-3(d): LIVE WITNESS TESTIMONY

Although Defendants do not contend or concede that expert testimony is necessary, to the

extent that Uniloc submits a supporting expert declaration or puts forth an expert witness at the

claim construction hearing or as Defendants deem necessary to assist in explaining the

technology and/or the patents-in-suit, Defendants will put forth expert witness(es), including Dr.

Paul Clark and Mr. Thomas A. Day, to support their claim construction positions and refute the

positions set forth by Uniloc. Defendants anticipate that their expert(s) will testify regarding the

level of ordinary skill in the art required to practice the alleged invention, the common

knowledge of one of ordinary skill in the art at the time that the patents-in-suit were filed, and

the technological background of the patents-in-suit. Defendants' further anticipate that their

expert(s) will testify regarding the proper construction of the terms of the asserted claims based

on the plain meaning of the claim language, the specification, the file history, and other intrinsic

and extrinsic evidence identified by Defendants in Exhibit C. Defendants also anticipate that

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their expert(s) will provide testimony regarding the indefiniteness of certain claim terms pursuant to 35 U.S.C. § 112 in light of the specification and the knowledge of one of ordinary skill in the art.

V.   P.R. 4-3(e): OTHER ISSUES

The parties do not currently have any issues that need to be taken up with the Court at a prehearing conference. Should any outstanding issues arise, they will be addressed in the briefing.

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