EXHIBIT A
PRELIMINARY STATEMENT

Defendants provide the following chart pursuant to P.R. 4-5. Defendants object to Plaintiffs' Exhibit B
includes Plaintiffs' notes and commentary, which do not comply with the rules and mischaracterize the partie
Patent Local Rules call for a *single* chart, but what Plaintiffs proposed is actually a piecemeal combination o
scattered commentary that detracts from the purpose of P.R. 4-5(d): to provide a straightforward overview of the
proposed constructions, and the Court's order on the same. Second, the clearest and most accurate charact
construction issues for the Court's consideration are the parties' competing constructions for the disputed term
in view of the parties' briefings in accordance with the P.R. 4-5(a), (b), and (c) submissions. The additional disc
an attempt to improperly advocate their positions, in what is supposed to be a neutral representation of the parties' c
by framing the parties' disputes in a manner that Plaintiffs believe is helpful to their own proposed constructions.
submission should be disregarded as improper argument.

Additionally, Defendants object to Plaintiffs' proposed constructions for two of the terms, as noted below
parties' previous agreement on these terms, Plaintiffs now propose entirely new constructions for these terms on
submission. As reflected in the chart below, Plaintiffs' submission:

1) deviates from the parties' prior agreement, as memorialized in the Parties' P.R. 4-3 Joint Claim Construc
   Statement (Dkt. 148), that the term "make the application program available for use" in the '293 patent sl
   "make the application available for access and download, responsive to user requests"; and

2) deviates from the parties' prior agreement that the term "application launcher program" should be constr
   distributed to a client to initially populate a user desktop and to request the application program from a se

Plaintiffs' attempt to reverse course on the parties' agreed constructions for these terms after the conclusion
briefing is highly and manifestly prejudicial because Defendants did not brief these terms based on Plaintiffs' r
parties' had reached agreed constructions. Moreover, Defendants made concessions during the parties' prior mee
to reach a compromise. Accordingly, the Court should reject Plaintiffs' proposals as noted below and adopt t
agreed constructions, which are stated by Defendants in the chart below.

However, should the Court deem it appropriate to consider Plaintiffs' new proposals, Defendants r
appropriate relief an opportunity to propose new constructions and file supplemental briefing for these terms. D
such additional briefing, given Plaintiffs' belated and unexcused departure from agreed upon constructions a
completed, strongly countenances postponing the *Markman* hearing until such time as Defendants have had su

propose new constructions and submit additional briefing in support thereof in order to provide the Court a full
claim construction disputes and their respective positions.

CLAIM CONSTRUCTION CHART PURSUANT TO LOCAL PATENT RULE 4-5(d

Terms and Phrases	Patent	Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction[1]	Co
"application program(s) / application(s)"	'466	1-4, 8-9, 13, 15-19, 23-24, 28, 30-32, 36-37, 41	"code associated with performing a particular function for a user"	"application level software program code for underlying application level functions that executes locally at the client as a separate application from the browser"	
	'766	1-3, 7-9, 13-15			
	'578	1, 2, 4, 5, 7, 11-18, 20, 21, 23, 27-33, 35, 36, 38, 42-46			
	'293	1, 12, 17			
"an instance" / "an instance of the application program" / "an instance of the selected one of the plurality of application programs"	'466	1, 14, 15, 16, 19, 28, 41	"A *program* is a sequence of instructions that indicates which operations the computer should perform on a set of data. An *instance* of a program is a copy of a program that is understandable by a computer's central processing unit and that is ready to run as soon	Kaspersky Labs: "a copy of an executable version of the program that has been written to the computer's memory." All other Defendants: plain and ordinary meaning; or, in the alternative, "a copy" / "a copy of the application program" / "a selected	
	'766	3, 9, 15			
	'578	15-17, 31-32, 46			

[1] Each Defendant only takes a position for a proposed construction to the extent such term or patent is asserted ag

Terms and Phrases	Patent	Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction[1]	Co
			it is copied from storage into memory."	copy of the application program"	
"registration operations"	'293	1, 12, 17	Uniloc's previous position: "registration of the file packet on the target on-demand server" Uniloc's new position: "registration of the application program at the target on-demand server so that it will be available to users from client computers"	"registration of the application program at the target on-demand server(s) so that it will be available for access and download responsive to user requests from client computers"	
"provid[e]/[ing] an instance of the application program" / "providing an instance of the selected one of the plurality of application programs to the client for execution"	'466	1, 15, 16	"provide" – plain and ordinary meaning "instance" – see above	Kaspersky, Ubisoft and Square Enix: plain and ordinary meaning All other Defendants: "download[ing] an instance of the application program from the server to the client" / "downloading an instance of the selected one of the	
	'766	3, 9, 15			
	'578	15, 16, 17, 32, 46			

Terms and Phrases	Patent	Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction[1]	Co
				plurality of application programs from the server to the client for execution"	
"the initiating execution step"	'578	6, 8	Claim 6 adds to claim 1 two limitations: A) storing a user set and an administrator set on a storage device, before initiating the execution, and then B) retrieving the stored sets in initiating the execution. Claim 8 adds to claim 1 the limitation: obtaining default preference values in initiating the execution.	Indefinite	

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