**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 INC.,	§	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-RWS
v.	§	LEAD CASE
	§	
ADP, LLC,	§	
BIG FISH GAMES, INC.,	§	Case No. 2:16-cv-00858-RWS
BLACKBOARD, INC.,	§	Case No. 2:16-cv-00859-RWS
BOX, INC.,	§	Case No. 2:16-cv-00860-RWS
ZENDESK, INC.,	§	Case No. 2:16-cv-00863-RWS
Defendants.		

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

Pursuant to P.R. 4-3, the Court's Docket Control Orders, and the Court's Order of July 5

(2:16-cv-00393-RWS Dkt. No. 168; 2:16-cv-00741-RWS Dkt. No. 199), Plaintiffs, Uniloc USA,

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

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

1

("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	centralized network management server	centralized server for managing the network
5.	'766 patent claims 3, 9, 15	on demand server	a server delivering applications as needed responsive to user requests as requests are received
6.	'293 patent claims 1, 12, 17	target on-demand server	a server delivering applications as needed responsive to user requests as requests are received at the server, where those applications are distributed from a centralized network management server
7.	'466 Patent claims 1, 15, 16	installing a plurality of application programs at the server	Plain and Ordinary Meaning

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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.

	CLAIMS	TERMS AND PHRASES	AGREED CONSTRUCTION
8.	'578 patent claims 1, 14, 15,17, 30, 32, 45	installing [an / a second] application program having a plurality of configurable preferences and a plurality of authorized users on a server coupled to the network	Plain and Ordinary Meaning
9.	'466 claims 1, 2, 8, 15, 17, and 23) '578 patent claims 1, 7, 10, 12-17, 23, 26, 32, 38, and 41-46	authorized user / [for which the] user [is (not)] authorized	Plain and Ordinary Meaning
10.	'578 patent claims 1, 2, 4, 6, 8, 10, 11, 14-18, 20, 22, 24, 26, 30-33, 35, 37, 39, 41, 42, 45 and 46	user set	Plain and Ordinary Meaning

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.

Uniloc will provide as a separate filing an **Exhibit B** adding an identification of intrinsic and extrinsic evidence supporting its proposed constructions for the two newly-disputed terms.

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. 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, or for other good cause.

Additionally, the parties agree that many 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. Their competing positions as to these terms are set forth below.

Plaintiffs' Position

Uniloc learned yesterday that a group of defendants want to add indefiniteness arguments as to most of over 100 means-plus-function terms. Uniloc opposes that request, as a violation of the Court's Docket Control Orders.

> **A.   The Docket Control Orders required timely briefing of indefiniteness arguments**.

This Court's Docket Control Order in the - 00393 cases provided:

> **Indefiniteness**: in lieu of early motions for summary judgment, the parties are directed to include any arguments related to the issue of indefiniteness in their *Markman* briefing, subject to the local rules' normal page limits.

(Dkt. 73, p. 7).

Judge Gilstrap's Docket Control Order in the -00741 cases identically provided:

Indefiniteness: in lieu of early motions for summary judgment, the parties are directed to include any arguments related to the issue of indefiniteness in their *Markman* briefing, subject to the local rules' normal page limits.

(Dkt. 143, p.5).

B. Defendants briefed only two indefiniteness arguments.

In their *Markman* briefing, Defendants raised but two indefiniteness arguments (see Dkt. 135-1, pp. 5-6 (April 20, 2017); Dkt. 150, pp.15-19 (June 10, 2017)); applying to eight means-plus-function clauses.

As regards the over 100 other means-plus-function clauses, Defendants did not raise or brief any indefiniteness issues. Instead, Uniloc and Defendants together began the time-consuming and tedious task of meticulously combing through the written descriptions of the patents in suit (and two other patents, incorporated by reference) to catalog the multitude of structures that corresponded to the claimed functions. The attached Exhibits E, F, and G comprise 54 pages representing the parties' progress.

Although not having enough time to finish the job by the last joint submission, the parties did not encounter any significant differences. Thus, the parties reported to the Court, on June 16, 2017 (Dkt. 159, p.2):

> The parties have exchanged several-rounds of competing identifications of specific structure for each of these [means-plus-function] terms, and are continuing to work in good faith to resolve their remaining disagreements. At this time, the parties do not believe that the Court needs to address these disagreements as part of the claim construction process.

When the Court rescheduled the Markman hearing from July 7 to August 10, 2007, Uniloc wrote to Defendants: "Guys – This is good news. Now maybe we can finish the MPF project!" (Ex.H).

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