

EXHIBIT 3

UNITED STATES DISTRICT COURT
 FOR THE EASTERN DISTRICT OF TEXAS
 TYLER DIVISION

UNILOC USA, INC., and)	
UNILOC SINGAPORE PRIVATE LIMITED)	
Plaintiff,)	
)	
v.)	Civil Action No. 6:10-cv-00373 LED
)	
SONY CORPORATION OF AMERICA, et al.)	
Defendants.)	

**DEFENDANTS' RESPONSE TO UNILOC'S SUR-REPLY IN SUPPORT
 OF THEIR MOTION TO TRANSFER**

Defendants Sony Corp. of America, Sony DADC US, Inc., Activision Blizzard, Inc., Aspyr Media, Inc., Borland Software Corp., McAfee, Inc., and Quark, Inc. (collectively “Defendants”) respond to Plaintiffs Uniloc USA, Inc. and Uniloc Singapore Private Limited's (jointly “Uniloc”) Sur-reply in Support of Their Opposition to Defendants' Motion to Transfer (Doc #97) as follows:

Uniloc's Sur-reply identifies that on January 27, 2011, Judge Smith of the District of Rhode Island, who presided over the *Uniloc v. Microsoft* action for nearly 7 years, referred the remanded damages case to Judge Young of the U.S. District Court for the District of Massachusetts to sit by designation. (*See Uniloc v. Microsoft*, No. 03-440 (D.R.I. January 27, 2011) (order [Dkt. 444].) However, Uniloc’s Sur-reply fails to apprise the Court of District of Rhode Island Local General Rule 105(b), which requires reassignment of any action remanded for a new trial. Local General Rule 105(b)¹ provides, in part:

Remanded Cases. Any case remanded to this Court for a new trial shall be reassigned to a judge other than the judge to whom the case previously was assigned.

¹ Select portions of the United States District Court for the District of Rhode Island Local Rules are attached to this Response for the Court's convenience.

This rule is why Judge Smith is not presiding over the remanded damages trial. However, there is no rule that precludes Judge Smith from presiding over other Uniloc cases filed in or transferred to the District of Rhode Island. To the contrary, consistent with notions of judicial economy, the Rhode Island local rules require that such cases would be assigned to Judge Smith. (See LR Gen 105(a)(2).) Thus, *Uniloc v. Microsoft* was remanded to and is still pending in the District of Rhode Island where the Magistrate will handle pre-trial matters and where Judge Young will preside over the remanded damages trial because he is sitting by designation. (See Dkt. 444.)

In this regard, even with a judge sitting by designation, the United States District Court for the District of Rhode Island retains jurisdiction over the *Uniloc v. Microsoft* case under Local General Rule 106 (“LR Gen 106”):

When a judge of another district is designated to hear a case . . . [t]he originating court [*i.e.*, Rhode Island] shall retain jurisdiction over the case, and the Local Rules of the originating court shall govern the case unless otherwise ordered by the judge who is presiding by designation. Any final judgment shall be entered by the originating court . . . Documents shall be filed with the clerk of the originating court . . . Conferences and hearings may be held in either district. Jury trials shall be held in the district where the case originates unless all parties agree otherwise.

Thus, all papers must be filed in the District of Rhode Island and any final judgment must be entered in the District of Rhode Island. Although conferences and hearings may be held in Judge Young’s Massachusetts court room, trial must be held in Rhode Island unless the parties agree otherwise and there is no indication in Uniloc's papers that the parties have made any such agreement.

Accordingly, Uniloc’s Sur-reply provides no basis to deny Defendant’s motion to transfer. Judge Smith remains eligible and, given his prior experience with the asserted patent, best suited to evaluate the issues of this case from the standpoint of judicial economy.

Accordingly, this case should be transferred to the United States District Court for the District of Rhode Island.

Dated: February 17, 2011

Respectfully submitted,

/s/ Tom Henson

Tom Henson

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by facsimile transmission and/or first class mail this 17th day of February, 2011.

/s/ Tom Henson