Exhibit T

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

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

DEFENDANTS' MOTION TO TRANSFER VENUE UNDER 28 U.S.C. § 1404(a)

All of the Defendants submit this Motion to Transfer Venue Under 28 U.S.C. §1404(a) ("Motion") to transfer this patent infringement action from the Eastern District of Texas to the District of Rhode Island ("RI District").[1] Plaintiffs Uniloc USA, Inc. and Uniloc Singapore Private Limited (jointly "Uniloc") allege defendants infringe U.S. Patent No. 5,490,216 ("'216 Patent"). In the RI District, Uniloc previously sued Microsoft for alleged infringement of the '216 Patent, which resulted in the RI District spending seven years, in part, construing terms of the '216 Patent, ruling on motions for summary judgment, presiding over a jury trial, and issuing an extensive Judgment as a Matter of Law. The RI District's decision is on appeal with the Court of Appeals for the Federal Circuit, which means its work may not yet be finished. Capitalizing on the RI District's extensive experience with the '216 Patent would conserve judicial resources, ensure consistency in the claim construction ruling, and avoid duplication of efforts. Moreover, this Motion is consistent with this Court's precedent finding judicial economy to be a significantly persuasive consideration especially where the transferee court has

[1] Defendants Sony Corp. of America, Sony DADC US, Inc., Activision Blizzard, Inc., Aspyr Media, Inc., Borland Software Corp., McAfee, Inc., and Quark, Inc. jointly submit this motion.

extensive experience with the asserted patent and other factors are neutral or even only slightly favor transfer. Defendants' Motion should be granted and this case should be transferred to the District of Rhode Island.

I. BACKGROUND

A. Uniloc's First Suit in Rhode Island Asserting the '216 Patent

In September 2003, Uniloc instituted the RI Action against Microsoft alleging infringement of the '216 Patent. For nearly seven years, the RI District spent extensive time addressing complex issues related to claim construction, infringement, validity and enforceability of the '216 Patent. In June 2007, the RI District stated:

> This case is approaching its fourth year of gestation in my chambers. A new judge would face a considerable learning curve and untold hours of preparation before reaching a point where resolving the parties' summary judgment motions (which I currently have under advisement) would be possible, even with the assistance of a technical advisor or computer-savvy intern or law clerk. This would translate into unnecessary repetition and expense for the parties. (emphasis added.)

Exhibit 1, RI District's Denial of Request for Recusal at 23.

The RI District's efforts and experience with the '216 Patent are extensive (*See* **Exhibit 2**, Civil Docket for *Uniloc v. Microsoft*, Case No. 1:03-cv-440 (D.R.I)) and include:

Nov. 2004 - Jan. 2005	Reading the parties' motions and hearing arguments related to Microsoft's inequitable conduct counterclaims.
Feb. - March 2006	Reviewing claim construction briefing (over 100 pages).
May 2006	Observing a technology tutorial and conducting a *Markman* hearing.
Aug. 2006	Issuing a 61-page claim construction order. **Exhibit 3**, RI Claim Construction Order. Commenting that to produce that order it "took almost an entire summer. . . ." **Exhibit 1,** RI District's Denial of Request for Recusal, p. 22.
Sept. 2006	Evaluating Uniloc's motion for summary judgment on inequitable conduct (briefing over 300 pages).
Sept. – Nov. 2006	Assessing Microsoft's motion for summary judgment on invalidity and non-infringement (briefing over 400 pages) and hearing related oral argument.

Oct. 2007	Granting Microsoft's summary judgment on non-infringement, finding it unnecessary to rule on validity (33-page order). **Exhibit 4,** Rhode Island Court's Summary Judgment Order.
Aug. 2008	Receiving the case on remand from the Federal Circuit after Uniloc's appeal.[2]
Feb. - March 2009	Reviewing Uniloc and Microsoft's pre-trial motions (850 pages).
March 2009	Analyzing Microsoft's pre-trial brief and supporting exhibits (350 pages).
March - April 2009	Presiding over a 10-day jury trial involving 10 live witnesses, 10 witnesses by deposition, and nearly 200 exhibits. Examining Uniloc and Microsoft's cross-motions for summary judgment regarding invalidity and non-infringement.
May - June 2009	Assessing Microsoft's motion for JMOL on the issues of invalidity and non-infringement (briefing is more than 600 pages).
Sept. 2009	Granting JMOL in a 66-page order on several issues, including findings of non-infringement. **Exhibit 5,** Rhode Island Court's JMOL.

B. Plaintiffs' New Actions Before This Court

After appealing the RI Action, Uniloc filed eight (8) successive suits in the Eastern District of Texas, including the present action, alleging infringement of the '216 Patent against 94 defendants. Those lawsuits include:

- *Uniloc v. Abbyy,* Case No. 6:09-cv-538, ECF No. 1 ("Complaint I");
- *Uniloc v. BCL Technologies*, Case No. 6:10-cv-18, ECF No. 1 ("Complaint II");
- *Uniloc v. Cyberlink.com,* Case No. 6:10-cv-69, ECF No. 1 ("Complaint III");
- *Uniloc v. DiskDoctors*, Case No. 6:10-cv-471, ECF No. 1 ("Complaint IV");
- *Uniloc v. National Instruments*, Case No. 6:10-cv-472, ECF No. 1 ("Complaint V");
- *Uniloc v. Sony,* Case No. 6:10-cv-373, ECF No. 1 (Complaint VI");
- *Uniloc v. Engrasp*, Case No. 6:10-cv-591, ECF No. 1 (Complaint VII); and
- *Uniloc v. BMC Software, Inc.*, Case No. 6:10-cv-636, EFC No. 1 (Complaint VIII).

Nothing of substance has occurred in these lawsuits as the Court has made no substantive rulings in any of these cases. In fact, every defendant sued in Complaints I-III, except for two, settled with Uniloc. *Uniloc v. Cyberlink.com,* Case No. 6:10-cv-69 was terminated on November 17, 2010.

[2] *Uniloc USA, Inc. v. Microsoft Corp.*, 290 Fed. Appx. 337 (Fed. Cir. 2008).

Similar to the other Uniloc lawsuits, in this case, the defendants are located across the country. In fact, all defendants, other than McAfee, are geographically dispersed, with two located in the Western District of Texas, two in California, and one each in Indiana, Colorado, and New York. Only McAfee has a place of business in the Eastern District of Texas. *See ECF No. 1.*

Uniloc inconsistently plead that it is incorporated both in Rhode Island (**Exhibit 6**, Complaints I-III; **Exhibit 7,** http://ucc.state.ri.us/CorpSearch/CorpSearchInput.asp "Rhode Island Secretary of State website" (last visited December 3, 2010)) and in Texas (**Exhibit 8**, Complaints IV-VIII;**, Exhibit 9,** https://ourcpa.cpa.state.tx.us/coa/Index.html "Texas Secretary of State website" (last visited December 3, 2010))[3], and has a principal place of business in California. In three prior complaints, Uniloc represents that it is incorporated in Rhode Island. **Exhibit 7**, Complaints I-III. The current complaint now represents that Uniloc is incorporated in Texas. *ECF No. 1.* Uniloc allegedly has one employee in Texas, who works in the Plano office. **Exhibit 10,** D.I. 102-1 at ¶ 4 from Case No. 6:09-cv-538, "Dec. of Craig Etchegoyen"). No employees work in the Tyler office, which is used to store documents produced in or related to the RI Action. **Exhibit 10** at ¶¶ 4-5.

II. ARGUMENT

[3] The Federal Circuit disapproves of such litigation inspired tactics for establishing presence in the Texas venue. (*See, e.g.,* **Exhibit 11**, *In re Apple*, Order Denying Motion to Transfer (Fed. Cir. May 12, 2010) ("To be sure, the status of [plaintiff], as a Texas corporation is not entitled to significant weight, inasmuch as the company's presence in Texas appears to be both recent and ephemeral. . . .") *See also*, *In re Zimmer Holdings, Inc.*, 609 F.3d 1378, 1381 (Fed. Cir. 2010) (Finding that, because plaintiff transported its prosecution files to this district, its "presence in Texas appear[ed] to be recent, ephemeral, and an artifact of litigation"); *see also Hertz Corp. v. Friend*, 130 S. Ct. 1181, 1195 (2010) (urging courts to ensure that the purposes of jurisdictional and venue laws are not frustrated by a party's attempts at manipulation)); *see also*, **Exhibit 12**, *MGM Well Serv., Inc. v. Production Control Serv., Inc.*, No. 6:10-cv-88 (E.D. Tex. Nov. 22, 2010) (order granting transfer) (J. Love, M.J.).

Transfer to the RI District, where this case could have been originally filed, is appropriate to conserve judicial resources and to prevent inconsistent decisions. The transfer will avoid unnecessary use of this Court's time and resources because the RI District is already familiar with the legal and technical issues of the '216 Patent. Uniloc's only potential connection with this District is its decision to file suit here and its alleged recently opened "offices." **Exhibit 10** at ¶¶ 4-5. All other factors favor transfer.

A. This Case Could Have Been Filed In the District of Rhode Island

"For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought." 28 U.S.C. § 1404(a). The threshold question for eligibility for transfer is "whether the judicial district to which transfer is sought would have been a district in which the claim could have been filed." *In re Volkswagen AG*, 371 F.3d 201, 203 (5th Cir. 2004) ("Volkswagen I").

As it relates to the defendants that have sold or offered the allegedly infringing products identified in the complaint, it is undisputed that this case could have been brought in the RI District. All of the defendants that offer the accused products sell their respective products either directly or indirectly into Rhode Island.[4] Moreover, Uniloc is a Rhode Island corporation that admitted contacts within that District. Complaints I-III. Thus, this case could have been brought in the RI District.

B. Judicial Economy Weighs Heavily Toward Transfer

1. The RI District's Experience With the '216 Patent Warrants Transfer

Section 1404(a) requires a court ruling on a motion to transfer to take into account "the interest of justice." 28 U.S.C. § 1404(a); *see also In re Volkswagen of Am. Inc.*, 545 F.3d 304,

[4] **Exhibit 13,** Declaration of Sony; **Exhibit 14,** Declaration of Activision Blizzard, Inc.; **Exhibit 15,** Declaration of Aspyr Media, Inc.; **Exhibit 16,** Declaration of Borland Software Corp.; **Exhibit 17,** Declaration of McAfee, Inc.; **Exhibit 18,** Declaration of Quark, Inc.

315 (5th Cir. 2008) ("*Volkswagen II*"). "Consideration of the interest of justice, which includes judicial economy, may be determinative to a particular transfer motion, even if the convenience of the parties and witnesses may call for a different result." *Zoltar Satellite Sys., Inc. v. LG Elecs. Mobile Elecs. Commc'ns. Co.*, 402 F. Supp. 2d 731, 735 (E.D. Tex. 2005) (L. Davis, J.) (quoting *Regents of the Univ. of Cal. v. Eli Lilly & Co.*, 119 F.3d 1559, 1565 (Fed. Cir. 1997)). "In cases that involve a highly technical subject matter, such as patent litigation, judicial economy may favor transfer to a court that is already familiar with the issues involved in the case." *Id.* Another court's extensive experience with the patent(s)-in-suit favors transfer to the other court. *Jackson v. Intel Corp.*, No. 2:08-CV-154, 2009 U.S. Dist. LEXIS 22117 (E.D. Tex. Mar. 19, 2009) (transferring to the N.D. Ill. noting that "the knowledge and experience that the judges of that district have developed with respect to [the patent-in-suit] cannot easily be replicated in this district without a substantial duplication of effort").[5] In fact, this Court previously rejected a plaintiff's efforts to try two similar patent actions in courts across the country, finding that "judicial economy will not bear that result." *Fujitsu Ltd. v. Tellabs, Inc.*, 639 F. Supp. 2d 761, 768 (E.D. Tex. 2009) (L. Davis, J.).

In *Zoltar*, this Court recognized that retaining a case, when the judge in the proposed transferee court had made a "substantial . . . investment of time and effort" to understand the patents and technology at issue, would require a "duplication of his efforts" and thus be "wasteful of judicial resources and detrimental to judicial economy." 402 F. Supp. 2d at 737.

[5] *See also Invitrogen Corp. v. Gen. Elec. Co.*, No. 6:08-CV- 112, 2009 U.S. Dist. LEXIS 9127 (E.D. Tex. Feb. 9, 2009); *Kinetic Concepts, Inc. v. BlueSky Med. Group. Inc.*, No. 2:07-CV-188, 2008 U.S. Dist. LEXIS 2900 (E.D. Tex. Jan. 14, 2008); *Am. Calcar Inc. v. Am. Honda Motor Co.*, No. 6:05-CV-475, 2006 U.S. Dist. LEXIS 69373 (E.D. Tex. Sept. 26, 2006); *Realtime Data, LLC v. Stanley*, No. 6:08-cv-326, 2010 WL 1064474, at *4 (E.D. Tex. Mar. 18, 2010) ("[T]ransfer is most appropriate when one court has extensive familiarity with the technology or the legal issues involved, a claim construction opinion has been prepared, and the cases involve the same or similar defendants with the same or similar products." (citations omitted)).

This Court observed that, under such circumstances, "judicial economy considerations strongly favor transferring" and concluded that those considerations were the "most important[]" factors supporting its decision to transfer. *Id.* at 737, 739.

In *Jackson*, the court agreed that after a protracted infringement action in the Northern District of Illinois, judges in that district had gained "significant familiarity with the patent-in-suit," and that the knowledge and experience developed by those judges could not easily be replicated "without a substantial duplication of effort." 2009 U.S. Dist. LEXIS 22117, at *12. Although the court found that the Northern District of Illinois was more convenient for some of the witnesses, it determined that the "[m]ore important[]" consideration was the "interests of justice," which "clearly mandate[d] a transfer . . . so as to preserve judicial economy and prevent inconsistent adjudications." *Id.* at *14.

Although judicial economy is not among the list of enumerated public and private factors for determining transfer, it is "a paramount consideration when determining whether a transfer is in the interest of justice." *Volkswagen II*, 566 F.3d at 1351; *see also*, **Exhibit 12**, *MGM Well Serv., Inc. v. Production Control Serv., Inc.*, No. 6:10-cv-88 (E.D. Tex. Nov. 22, 2010) (order granting transfer) (J. Love, M.J.). Therefore, even where the other factors are "neutral or weighing slightly in favor of transfer," the concern for judicial economy posed by a "significant overlap" between the pending case and previous litigation in the transferee forum, "weighs significantly in favor of transfer." *Invitrogen*, 2009 U.S. Dist. LEXIS 9127, at *14-15, *19; *see also Kinetic Concepts, Inc.*, 2008 U.S. Dist. LEXIS 2900, at *5-6 (finding that "[a]lthough the private factors in this case are neutral, the public interest factors overwhelmingly favor a transfer" because the transferee judge "invested time and effort in learning the technology at issue in the case"). In *Invitrogen*, the court found that a significant overlap existed because a

prior district court construed disputed claims of "three of the six patents at issue and presided over a jury trial." 2009 U.S. Dist. LEXIS 9127, at *14. The court considered the transferee court's extensive involvement with the asserted patents to be the most important factor in its analysis and decision to transfer. *Id.* at *15.

Considering all of the factors of this case, the RI District's extensive experience with the technology and claims related to the '216 Patent, including conducting a *Markman* hearing and trial, warrant transfer. In the RI District's own words, "[a] new judge would face a considerable learning curve and untold hours of preparation" before he or she could address the motions pending at that time, let alone all of the complex issues relating to the '216 Patent. **Exhibit 1,** RI District's Denial of Request for Recusal, p. 23. Transferring the case to the RI District not only eliminates the need for this Court to become educated on the '216 Patent and technology, but also preserves the transferee court's familiarity with the technology. *Invitrogen*, 2009 WL 331891, at *5; *Jackson*, 2009 WL 749305, at *4.

2. Preventing Inconsistent Claim Construction Warrants Transfer

Another significant consideration in the analysis for transfer is the maintenance of consistent claim construction. At Uniloc's urging, the RI District construed the claims of the '216 Patent and issued opinions regarding infringement based on its claim constructions. The importance of consistent claim construction is well established. This Court previously discussed that the risk of inconsistent claim constructions is an important consideration when assessing the importance of judicial economy in transfer analysis. *U.S. Ethernet Innovations, LLC v. Acer, Inc.,* 2010 U.S. Dist. LEXIS 69536 at *33 (E.D. Tex. July 13, 2010); *Jackson*, 2009 U.S. Dist. LEXIS 22117, at *14 (transfer mandated to "prevent inconsistent adjudications"). Uniloc's decision to file eight (8) different suits against numerous defendants in this District, after it fully

litigated the '216 Patent in the RI District could lead to the very thing the law was meant to avoid – inconsistency.

3. Plaintiffs' Choice of Venue Has Little or No Bearing on Transfer

A plaintiff's choice of venue "corresponds to the burden that a moving party must meet in order to demonstrate that the transferee venue is a clearly more convenient venue," but is not considered as a distinct factor in a § 1404 analysis. *In re TS Tech USA Corp.*, 551 F.3d 1315, 1320 (Fed. Cir. 2008); *see also In re Nintendo Co.*, 589 F.3d 1194, 1200 (Fed. Cir. 2009).

While a plaintiff's choice of forum is ordinarily entitled to some deference, the plaintiff's deference dissipates if it does not reside in the chosen forum and operative facts have not occurred there. *See Logan, v. Hormel Food Corp.*, No. 6:04-CV-211 2004 WL 5216126, at *3 (E.D. Tex. Aug. 25, 2004). A plaintiff's choice of forum should be given little deference when the plaintiff originally selected the forum to litigate its patents and is still engaged in proceedings in that forum. *See, e.g., DataTreasury Corp. v. First Data Corp.*, 243 F. Supp. 2d 591, 594 (N.D. Tex. 2003) (observing that plaintiff's choice of forum "becomes less significant where . . . the plaintiff originally filed suit in another district").[6] Finally, "any deference given to a plaintiff's forum choice can be overcome by other compelling private and public interest factors that favor transfer." *Zoltar*, 402 F. Supp. 2d at 738.[7]

In sum, a transfer of the present case to the RI District will avoid the costly and wasteful duplication of effort that would otherwise be necessary to achieve the knowledge and experience

[6] *See also Inline Connection Corp. v. Verizon Internet Servs., Inc.*, 402 F. Supp. 2d 695, 701 (E.D. Va. 2005) ("Plaintiff's choice of forum should not be accorded great weight where, as here, Plaintiff originally selected a separate forum within which to litigate its patents and is simultaneously engaged in litigation in that forum.").

[7] *See also U.S. Ethernet Innovations*, 2010 U.S. Dist. LEXIS 69536 at *31 (finding plaintiff "must accept the litigation history surrounding [the patent]" and in the interest of judicial economy the "prior choice of forum and the judicial resources that were subsequently invested in that case" will not be ignored).

with the '216 Patent the RI District already gained. Judicial economy considerations strongly favor transfer and any other result would be an inefficient use of judicial resources.

C. Public and Private Factors Favor Transfer

An analysis of the remaining transfer considerations presents further significant reasons to transfer this case to the RI District. After addressing jurisdiction, the court must also consider the public and private interest factors relating to the convenience of parties and witnesses as well as the interests of particular venues in hearing the case. *See Logan*, 2004 WL 5216126, at *1-2. Such factors include:

> The public interest factors are: (1) the administrative difficulties flowing from court congestion; (2) the local interest in having localized interests decided at home; (3) the familiarity of the forum with the law that will govern the case; and (4) the avoidance of unnecessary problems of conflicts of laws [or in] the application of foreign law.
>
> The private interest factors are: (1) the relative ease of access to sources of proof; (2) the availability of compulsory process to secure the attendance of witnesses; (3) the cost of attendance for willing witnesses; and (4) all other practical problems that make trial of a case easy, expeditious and inexpensive.

Volkswagen II, 545 F.3d at 315; *see also In re TS Tech USA Corp.*, 551 F.3d at 1319. These factors are not necessarily exhaustive or exclusive and other factors may carry substantial weight. *Id.* In complex litigation involving a multitude of companies with facilities and employees all over the country, "the private interest factors often become diluted and less influential in the transfer analysis." *Zoltar*, 402 F. Supp. 2d at 738.

1. Public Factors

The public factors favor transfer for the following reasons.

a. The Eastern District of Texas is More Congested Than the RI District which Favors Transfer

The time to trial in each District is significantly different. The District of Rhode Island had a median time from filing to trial of 19 months, whereas this District had a median time from filing to trial of 25 months. **Exhibit 19,** "Federal Court Management Statistics 2009 – District Courts – Rhode Island" located at http://www.uscourts.gov/viewer.aspx?doc=/cgi-bin/cmsd2009.pl (last visited December 3, 2010); **Exhibit 20,** "Federal Court Management Statistics 2009 – District Courts – Texas Eastern" located at http://www.uscourts.gov/viewer.aspx?doc=/cgi-bin/cmsd2009.pl. (last visited December 3, 2010). Six additional months with seven (7) defendants in this case coupled with the complexity of patent litigation can result in tremendous cost to the parties and the Court.

b. Local Interest Favors Transfer

The interest in having localized matters decided at home also favors transfer. As alleged by Uniloc, defendants' products are available for sale and download over the internet and are sold throughout the United States, including the Eastern District of Texas. *ECF No. 1 at ¶¶6-12.* But Uniloc's allegations that the sale of allegedly infringing products occurs throughout this District do not create a sufficient local interest "to tilt this factor against a transfer." *Jackson*, 2009 U.S. Dist. Lexis 22117 at *9; *see Am. Calcar*, 2006 U.S. Dist. LEXIS 69373, at *7. Such allegations might just as easily apply to any other district in any other state. More importantly, none of the defendants in this case has headquarters in this District, and only one has an office here.

Also, Uniloc USA, which was originally incorporated under the laws of Rhode Island (**Exhibit 6**, Complaints I-III; **Exhibit 7**, Rhode Island Secretary of State website), was still incorporated in Rhode Island, at least as of July 18, 2010. Uniloc also alleges that it has places of business in this District, but as its own declaration filed with this Court attests, there is only one

employee and its office appears to be for document storage related to the RI Action. **Exhibit 10** at ¶¶ 4-5, Dec. of Etchegoyen. These tactics do not show a localized interest.

The Federal Circuit disparaged litigation-inspired tactics intended to establish presence in the Texas venue. (*See In re Zimmer Holdings, Inc.*, 609 F.3d at 1381; **Exhibit 11**, *In re Apple*, Order Denying Motion to Transfer (Fed. Cir. May 12, 2010); **Exhibit 12,** *MGM Well Serv.,* No. 6:10-cv-88 (E.D. Tex. Nov. 22, 2010). Transferring this case to the RI District will thwart litigation inspired tactics and allow this Court to preserve judicial resources for the benefit of the litigants actually residing in this District.

c. Forum's Familiarity with Governing Law is a Neutral Factor

The forum's familiarity with governing law factor is neutral because patent cases are adjudicated under federal law, which all U.S. District Courts are presumed equally capable of applying. *See Zoltar*, 402 F. Supp. 2d at 737-8; *Am. Calcar*, 2006 U.S. Dist. LEXIS 69373, at *7-8; *Jackson*, 2009 U.S. Dist. LEXIS 22117, at *10-11.

d. Conflict of Laws is a Neutral Factor

Since patent cases are governed by federal law, there is no risk of conflict of laws problems in either district. *Am. Calcar*, 2006 U.S. Dist. LEXIS 69373, at *8.

2. Private Factors

This Court recognized that the significance of the private interest factors in the transfer analysis diminishes when a case involves multiple defendants from across the country. *Zoltar*, 402 F. Supp. 2d at 738. Nevertheless, the private factors still favor transfer.

a. The Relative Ease of Access to Sources of Proof Favors Transfer

With respect to the alleged infringing products, relevant evidence will include documents related to the design, functionality, and technical specifications of those products. While the

identification and collection of such documents may be burdensome, once assembled, they can be accessed in electronic format from any number of locations. The location of such documents, therefore, does not weigh significantly in the transfer analysis. *See Zoltar*, 402 F. Supp. 2d at 738 ("However, due to the advances in copying, storage, and transfer of data, the accessibility and location of sources of proof is given little weight in the § 1404(a) transfer analysis.").[8]

Moreover, the defendants that would allegedly be inconvenienced do not oppose transfer to the RI District. And while Uniloc maintains an office in Tyler, Texas, it already provided the RI District with volumes of relevant evidence and admits that its principal place of business is in California. *ECF Doc. 1 at ¶ 4.* Furthermore, documents relied upon at trial by Uniloc are presumably in the RI District or have been used there. For Uniloc, making those documents available to the RI District should take little effort.

b. Convenience of Parties and Witnesses Favors Transfer

Transferring the case to the RI District will reduce the litigation burden on all parties involved and result in a more expeditious trial. For example, while the technical tutorial provided to the RI District required an expenditure of judicial resources, the litigants bore the cost of providing technical advisors to conduct that tutorial. Transferring this action to the RI District will prevent the parties from having to duplicate such efforts.

Uniloc cannot claim the RI District is inconvenient as it previously chose that forum to litigate the '216 Patent. *See, e.g., Fuji Photo Film Co. v. Lexar Media, Inc.*, 415 F. Supp. 2d 370, 376 (S.D.N.Y. 2006) (observing that the plaintiff could not "contend that the [proposed] forum [was] inconvenient when it chose to litigate there for over three years"). Moreover, any

[8] *Odom v. Microsoft Corp.*, 596 F. Supp. 2d 995, 1000, n.2 (E.D. Tex. 2009) (observing that "electronic information pertaining to [] accused software may be transported to different locations via a laptop computer, a CD, a disk, a flash drive, etc." and that it therefore "does not follow that transfer to the location of the stored information is more convenient for anyone").

convenience or cost advantages realized by remaining in Texas are substantially outweighed by considerations of judicial economy. *See, e.g., Reuter v. Jax*, 2007 U.S. Dist. LEXIS 72262, **14-15 (E.D.Tex. 2007) (finding transfer appropriate for judicial economy even if it inconveniences a party).

c. Availability of Compulsory Process is a Neutral Factor

Any advantages with respect to compulsory process or cost of witness attendance that may be realized in the Eastern District of Texas are outweighed by the compelling public interest factors militating for a transfer of venue to the RI District. In addition, courts have found that that the availability of compulsory process is a neutral factor when no party has identified unwilling witnesses that would be subject to subpoena in the transferor court but not in the transferee court. *Ctr. One v. Vonage Holdings Corp.*, 2009 U.S. Dist. LEXIS 69683, at *20 (E.D. Tex. Aug. 10, 2009).

IV. CONCLUSION

Defendants respectfully request that this Court transfer the instant action to the District of Rhode Island to save substantial judicial resources and prevent or limit inconsistent decisions regarding the '216 Patent

Respectfully submitted,

Dated: December 7, 2010

/s/ Tom Henson

Tom Henson
RAMEY & FLOCK, P.C.
Attorneys-at-Law
100 East Ferguson, Suite 500
Tyler, TX 75702
Telephone: 903-597-3301
Fax: 903-597-2413
Email: thenson@rameyflock.com

OF COUNSEL:
Gregory S. Gewirtz
E-mail: ggewirtz@ldlkm.com
Raymond B. Churchill, Jr.
E-mail: rchurchill@ldlkm.com
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, NJ 07016
Tel: 908.654.5000
Fax: 908.654.7866

Attorneys for Defendants
Sony Corporation of America and
Sony DADC US, Inc.

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). Any other counsel of record will be served by facsimile transmission and/or first class mail this 7th day of December, 2010.

/s/ Tom Henson

CERTIFICATE OF CONFERENCE PURSUANT TO LOCAL RULE CV-7(i)

I certify that I conferred with counsel for Uniloc, USA, Inc. and Uniloc Singapore Private Ltd., ("Uniloc") pursuant to Local Rule CV-7(h) in a good faith effort to resolve the items presented to the Court in Defendants' Motion to Transfer Venue. The conference took place on December 7, 2010 at 1PM (CST) via telephone with Johnny Ward and Dean Bostock representing Uniloc, and Ray B. Churchill, Jr., Greg S. Gewirtz, Fahd K. Majiduddin, Tom Henson, Patrick Lujin, Megan Redmond, Eric Hall, and John Guaragna, representing the various Defendants. Parties are in disagreement as to the venue of this case. Counsel for Uniloc indicated that Uniloc would oppose this motion. The discussions have conclusively ended in an impasse, leaving open for the Court to resolve the issues presented in Defendants' Motion to Transfer.

/s/ Tom Henson