

**BEFORE THE UNITED STATES
JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION**

_____)
)
In re: SAP SE Patent Litigations) MDL-____
)
_____)

**BRIEF IN SUPPORT OF DEFENDANTS' MOTION FOR TRANSFER OF ACTIONS
TO THE DISTRICT OF DELAWARE PURSUANT TO 28 U.S.C. § 1407**

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I. INTRODUCTION

This litigation is a textbook case justifying multidistrict transfer and consolidation under 28 U.S.C. § 1407. Plaintiffs SAP SE (“SAP”), Business Objects Software Ltd. (“Business Objects”), and Sybase, Inc. (“Sybase”) (collectively, “Plaintiffs”) chose to file cases for patent infringement against three related defendant entities in three different forums, notwithstanding the significant patent overlap among the proceedings. The three cases are:

- *SAP SE, Sybase, Inc., & Business Objects Software LTD. v. Trayport Limited*, 1:25-cv-00562 (N.D. Ill. Jan. 16, 2025);¹
- *SAP SE & Sybase, Inc. v. TSX Alpha U.S., Inc.*, 1:25-cv-00232 (D. Del. Feb. 27, 2025); and
- *SAP SE & Business Objects Software Ltd. v. TMX Group Limited*, 2:25-cv-01038 (E.D. Pa. Feb. 27, 2025).

Prior to filing this motion, Defendants TSX Alpha U.S., Inc. (“TSX Alpha”), TMX Group Limited (“TMX Group”), and Trayport Limited (“Trayport”) (collectively, “Defendants”) asked Plaintiffs if they would consent to consolidation of all three cases in any jurisdiction. Plaintiffs refused. Instead, Plaintiffs proposed to informally agree to try coordinating discovery and scheduling to the extent possible across the three cases. While this is a step in the right direction, it is not enough. The additional step of formal consolidation into a multidistrict litigation is warranted to eliminate the significant inefficiencies and potential for inconsistent results that would follow from requiring three different jurisdictions (and judges) to deal with related parties, facts, and legal issues.

¹ SAP actually filed a fourth case in the Northern District of Illinois on February 27, 2025, but that case was consolidated with the first-filed case on April 16, 2025.

The District of Delaware would be the most convenient venue, given that the relevant parties are incorporated in the district and the district is well equipped to handle both MDL actions and patent litigation cases. Indeed, many of the factors that this Panel considers in selecting a transferee forum weigh in favor of Delaware being the appropriate forum for this litigation. For example, one of the three actions is currently pending in Delaware, the district is a central hub for this litigation (particularly from a geographic standpoint), and Judge Noreika, who is currently presiding over *SAP SE & Sybase, Inc. v. TSX Alpha U.S., Inc.*, 1:25-cv-00232 (D. Del. Feb. 27, 2025), has had significant experience with patent litigations during her time on the bench.

For these reasons, discussed in further detail below, Defendants respectfully request that the Panel establish a multidistrict litigation pursuant to 28 U.S.C. § 1407 and transfer the cases to the District of Delaware for consolidation. Centralization is particularly appropriate and beneficial here, where all three cases are in their infancy, and no prejudice would result from dealing with all three cases in front of the same judge in a single court.

II. FACTUAL BACKGROUND

A. The Present Cases and Parties.

SAP and Sybase filed their first suit against Trayport on January 16, 2025, in the Northern District of Illinois, asserting four patents. Ex. 1 at ¶ 1 (Jan. 16, 2025 Complaint – Trayport). On February 27, 2025, SAP, Sybase, and new Plaintiff Business Objects filed a second suit against Trayport in the same district, asserting three different patents against the same accused products at issue in the first suit. Ex. 2 at ¶¶ 1, 18-23 (Feb. 27, 2025 Complaint – Trayport). At Trayport’s request, these two proceedings were consolidated on April 16, 2025. Ex. 3 (Apr. 16, 2025 N.D. Ill. Consolidation Order).

Plaintiff SAP is a German corporation with a principal place of business in Walldorf, Germany. Ex. 4 at ¶ 2 (Apr. 23, 2025 Amended Complaint – Trayport). Plaintiff Business Objects

is a private company by limited shares in Ireland, with its principal place of business in Dublin, Ireland. *Id.* at ¶ 3. Plaintiff Sybase is a Delaware corporation, with its principal place of business in San Ramon, California. *Id.* at ¶ 4. The Defendant named in the Illinois actions, Trayport, is a private limited company registered in England and Wales. *Id.* at ¶ 5. Trayport provides a software platform called Joule that connects traders to energy market trading venues and provides trading data and analytics. *Id.* at ¶¶ 22-24.

On the same day that Plaintiffs sued Trayport for a second time, SAP and Sybase filed a separate suit for patent infringement against TSX Alpha in the District of Delaware. Ex. 5 (Feb. 27, 2025 Complaint – TSX Alpha). TSX Alpha is a Delaware corporation, with its principal place of business in New York, New York. *Id.* at ¶ 4. TSX Alpha operates a trading platform called AlphaX US, which is an alternative trading system for trading National Market System equities used by broker-dealers registered with the SEC. *Id.* at ¶¶ 13-17.

Also on February 27, 2025, SAP and Business Objects filed a suit for patent infringement against TMX Group in the Eastern District of Pennsylvania. Ex. 6 (Feb. 27, 2025 Complaint – TMX Group). TMX Group is a Canadian corporation with its principal place of business in Ontario, Canada. *Id.* at ¶ 4. TMX Group is a financial services holding company, with subsidiaries that provide listing markets, trading markets, clearing facilities, depository services, technology solutions, data products, and other services to the global financial community. *See* Ex. 7 at 13-14, App'x A (Mar. 19, 2025 TMX Group Annual Information Form).

Trayport and TSX Alpha are both subsidiaries of TMX Group. *See id.* at App'x A. The plaintiff entities are also related. Sybase is a subsidiary of SAP, and Business Objects is a subsidiary of SAP and SAP France. Ex. 4 at ¶¶ 3-4. Across all three proceedings, Plaintiffs are represented by the Ropes & Gray firm (along with local counsel in E.D. Pa. and D. Del.), and

Defendants are represented by the Morrison & Foerster firm (also with local counsel in E.D. Pa. and D. Del.).

The currently pending cases are in their early stages, and Defendants moved to dismiss Plaintiffs' complaints in all three actions on *Twombly* grounds.² Plaintiffs opposed all three motions, and briefing is not yet complete in two of the jurisdictions. An initial status hearing has been set in the N.D. Ill. case for June 11, 2025, and the parties have exchanged competing scheduling proposals. However, no case schedule has been set in any of the three actions, and no Rule 16 conference has been scheduled either in E.D. Pa. or in D. Del.³

B. The Asserted Patents.

Across the three cases, there are eight asserted patents: U.S. Patent Nos. 7,383,253 (“253 patent”); 7,818,365 (“365 patent”); 7,853,482 (“482 patent”); 8,549,035 (“035 patent”); 8,396,886 (“886 patent”); 8,577,927 (“927 patent”); 9,009,354 (“354 patent”); and 8,782,059 (“059 patent”). The table below illustrates the overlap in asserted patents by case:

² TMX Group separately moved to dismiss for lack of personal jurisdiction, based on its status as a holding company and the fact that its subsidiary TSX Inc. performs the allegedly infringing conduct.

³ Defendants are filing motions to stay in each of the three jurisdictions contemporaneously with this motion, pending resolution by the Panel.

	'253	'365	'482	'035	'886	'927	'354	'059
<i>SAP SE & Sybase, Inc. v. TSX Alpha U.S., Inc.</i> , 1:25-cv-00232 (D. Del. Feb. 27, 2025); Ex. 5 at ¶ 1.				X	X			
<i>SAP SE, Sybase, Inc., & Business Objects Software LTD. v. Trayport Limited</i> , 1:25-cv-00562 (N.D. Ill., Jan. 16, 2025); ⁴ Ex. 4 at ¶ 1.	X	X	X	X	X	X	X	
<i>SAP SE & Business Objects Software Ltd. v. TMX Group Limited</i> , 2:25-cv-01038-GAM (E.D. Pa., Feb. 27, 2025); Ex. 6 at ¶ 1.						X	X	X

As shown above, the two patents asserted in the D. Del. case are also at issue in the N.D. Ill. case, and two of the three patents asserted in the E.D. Pa. case are at issue in the N.D. Ill. case as well.

While the asserted patents have several assignees and various named inventors, the '886 and '253 patents have the same five named inventors. Ex. 8; Ex. 10. The '886 patent is asserted in D. Del. and N.D. Ill., but the '253 patent is only asserted in the N.D. Ill. case. Ex. 5 at ¶ 1; Ex. 4 at ¶ 1; Ex. 6 at ¶ 1.

III. LEGAL STANDARD

This Panel may order consolidation of two or more civil actions pending in different judicial districts when the cases (1) “involv[e] one or more common questions of fact”; (2) doing so is for the “convenience of parties and witnesses”; and (3) centralization will “promote the just and efficient conduct of such actions.” 28 U.S.C. § 1407(a); *see also In re Midwest Energy*

⁴ In the first N.D. Ill. case, filed on January 16, 2025, Plaintiffs asserted the '253, '365, '482, and '035 patents. Ex. 1 at ¶ 1. In the second N.D. Ill. case, filed on February 27, 2025, Plaintiffs asserted the '886, '927, and '354 patents. Ex. 2 at ¶ 1. As discussed above, the two cases were consolidated on April 16, 2025. Ex. 3.

Emissions Corp. Pat. Litig., 764 F. Supp. 3d 1380, 1381 (J.P.M.L. 2024) (analyzing consolidation by considering these three factors). Applying this standard, centralization may be warranted even where “different combinations of patents are asserted in the actions” and there is not complete overlap in the asserted patents across the proceedings. See *In re Proven Networks, LLC, Pat. Litig.*, 492 F. Supp. 3d 1338, 1339 (J.M.P.L. 2020) (holding that centralization is warranted where various combinations of patents were asserted across eight cases and no single patent was present in all cases); see also *In re Denosumab Pat. Litig.*, 766 F. Supp. 3d 1336, 1338 (J.P.M.L. 2025) (granting centralization despite “many non-overlapping patents [being] asserted against each defendant”).

Similarly, centralization can be appropriate even where the accused products differ among the cases. See *In re Proven Networks, LLC, Pat. Litig.*, 492 F. Supp. 3d at 1339 (“[D]ifferences in the accused products and infringement allegations in the cases do not prevent centralization where common factual issues involving claim construction and patent invalidity are shared.”); *In re Bear Creek Techs., Inc. ('722) Pat. Litig.*, 858 F. Supp. 2d 1375, 1379 (J.P.M.L. 2012) (“The Panel has often centralized litigation involving different products which allegedly infringe a common patent or patents.”); *In re Mobile Telecomms. Techs., LLC Pat. Litig.*, 222 F. Supp. 3d 1337, 1338 (J.P.M.L. 2016) (same). Indeed, in cases like this one, which involve “complex technology patents that will require substantial time and effort by the courts when claim terms are construed,” centralization of multiple pending cases in a single jurisdiction may “eliminate duplicative discovery, prevent inconsistent pretrial rulings . . . and conserve the resources of the parties, their counsel and the judiciary.” *In re Taasera Licensing, LLC, Pat. Litig.*, 619 F. Supp. 3d 1352, 1352-53 (J.M.P.L. 2022); see also *In re RAH Color Techs. LLC Pat. Litig.*, 347 F. Supp. 3d 1359, 1360 (J.M.P.L. 2018) (granting centralization when nine overlapping patents were asserted in three different judicial districts).

IV. ARGUMENT

Each of the relevant factors under Section 1407(a) weighs in favor of centralization. First, there are numerous common questions of fact and law across the three pending proceedings. Second, proceeding in a single forum instead of three will be more convenient for the parties and their witnesses. Third, proceeding in a single forum will avoid duplicative efforts and potential inconsistent rulings, thereby resulting in a more just and efficient resolution of Plaintiffs' allegations and use of the courts' time and resources.

A. All Three Actions Involve Common Questions of Fact and Law.

The three pending cases involve common questions of law and fact. Four of the eight asserted patents are at issue in multiple litigations, and while each patent gives rise to a separate claim for infringement, the patents all relate to the same general subject matter. Additionally, while different accused products are at issue, they all have the same field of use, and for some patents, Plaintiffs' infringement allegations do not vary significantly by accused product. This Panel has granted centralization and transfer in similar circumstances. *See In re Proven Networks, LLC, Pat. Litig.*, 492 F. Supp. 3d at 1339 (granting consolidation where “although different combinations of patents are asserted in the actions, there is substantial overlap in the asserted patents”).

All of the patents (even those only asserted in N.D. Ill. or E.D. Pa.) relate to allegedly inventive data processing, access, and transfer techniques. For example, the '886 patent is asserted against Trayport and TSX Alpha in N.D. Ill. and D. Del., respectively. Ex. 5 at ¶ 1; Ex. 4 at ¶ 1. That patent is titled “Continuous processing language for real-time data streams.” Ex. 4 at ¶ 19. The '253 patent is only asserted in N.D. Ill. and has a slightly different title of “Publish and subscribe capable continuous query processor for real-time data streams.” *Id.* at ¶ 17. But these

two patents have identical inventors, and the related nature of them is further confirmed by the fact that the '886 patent incorporates the '253 patent by reference. Ex. 10 at 3:35-42.

Similarly, the '365 patent (asserted in N.D. Ill. only) describes “exchanging data between a client and information sources.” Ex. 9 at Abstract. The '059 patent (asserted in E.D. Pa. only) describes “selecting and importing objects,” where the objects include “data and related processes.” Ex. 15 at Abstract. And the '035 patent (asserted in Delaware and N.D. Ill.) describes a method for “retrieving operational data” in order to “standardize and unify data access.” Ex. 12 at 1:7-9, 7:5-6. Given the significant overlap in subject matter, in the absence of consolidation, the three pending cases would involve numerous common factual issues relating to claim construction, invalidity, and even infringement. *See In re RAH Color Techs. LLC Pat. Litig.*, 347 F. Supp. 3d at 1359-60 (granting centralization where all three pending actions “involve factual questions about the alleged infringement, validity and enforceability”).

Furthermore, while the accused products are different in each of the three litigations, Plaintiffs' infringement theories overlap in some instances as well, even for different accused products.⁵ For example, the '927 patent is asserted against Trayport in N.D. Ill. and TMX Group in E.D. Pa. In each litigation, claim 1 is mapped to different accused products, but Plaintiffs' allegations are almost identical:

'927 Patent – Limitation 19(a)

Plaintiffs' Allegations Against Trayport	Plaintiffs' Allegations Against TMX
Trayport Joule defines, by at least one data processor, an individual publication schema for each heterogeneous source of a plurality of heterogeneous sources, wherein each	TMX defines, by at least one data processor, an individual publication schema for each heterogeneous source of a plurality of heterogeneous sources, wherein each

⁵ Defendants have moved to dismiss Plaintiffs' complaints on *Twombly* grounds, but Plaintiffs have defended the sufficiency of their infringement allegations and therefore those allegations should be accepted at face value for the purposes of deciding this motion.

<p>individual publication schema specifies mapping rules between data from a heterogeneous source and a non-permanent structured instance of data.</p>	<p>individual publication schema specifies mapping rules between data from a heterogeneous source and a non-permanent structured instance of data.</p>
<p>For example, Trayport Joule defines, by at least one data processor, an individual publication schema for each heterogeneous source of a plurality of heterogeneous sources, such as the different sources of data ingested in Trayport Joule’s databases. Each individual publication schema specifies mapping rules between data from a heterogeneous source and a non-permanent structured instance of data, such as the temporary data stored on Trayport Joule servers when processing input from data providers, or other non-permanent structures used while processing user queries.</p>	<p>For example, TMX defines, by at least one data processor, an individual publication schema for each heterogeneous source of a plurality of heterogeneous sources, such as the different sources of data ingested in TMX’s databases. Each individual publication schema specifies mapping rules between data from a heterogeneous source and a non-permanent structured instance of data, such as the temporary data stored on TMX servers when processing input from third-parties, temporary data each TMX Grapevine Cluster while processing user queries, or other non-permanent structures used while processing user queries.</p>

Ex. 16 at 2 (’927 Patent, Trayport Claim Chart); Ex. 17 at 5 (’927 Patent, TMX Claim Chart).

Similarly, Plaintiffs’ infringement allegations for the ’886 patent, asserted in Delaware and Illinois, are almost identical for some limitations, despite the difference in accused products, as shown below:

’886 Patent – Limitation 1(b)

<p>Plaintiffs’ Allegations Against Trayport</p>	<p>Plaintiffs’ Allegations Against TSX Alpha</p>
<p>Trayport Joule executes a query operation directly on the one or more continuous input data streams, including any windows of data within the one or more continuous input data streams, without any preprocessing of the continuous input data streams, including without storing the continuous input data streams in any data structure, prior to said executing, wherein the query operation is executed on a continuous basis.</p>	<p>AlphaX executes a query operation directly on the one or more continuous input data streams, including any windows of data within the one or more continuous input data streams, without any pre-processing of the continuous input data streams, including without storing the continuous input data streams in any data structure, prior to said executing, wherein the query operation is executed on a continuous basis.</p>

<p>For example, Trayport Joule executes a query operation on a continuous basis directly on the one or more continuous input data streams, including any windows of data within the one or more continuous input data streams, such as performing queries on market information, pricing information, and other data received from sources on a continuous basis. On information and belief, the query operation is executed without any preprocessing of the continuous input data streams, including without storing the continuous input data streams in any data structure, prior to executing the query operation.</p>	<p>For example, AlphaX executes a query operation on a continuous basis directly on the one or more continuous input data streams, including any windows of data within the one or more continuous input data streams, such as performing queries on SIP data feeds or other feeds of market data on a continuous basis. On information and belief, the query operation is executed without any pre-processing of the continuous input data streams, including without storing the continuous input data streams in any data structure, prior to executing the query operation.</p>
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Ex. 18 at 7 ('886 Patent, Trayport Claim Chart); Ex. 19 at 19 ('886 Patent, TSX Alpha Claim Chart).

In characterizing the various accused products, Plaintiffs' complaints make it clear that they are all within the same field of use as it relates to the patented technology—data processing, access, and transfer techniques used as part of trading and market analytics platforms. *See* Ex. 4 at ¶¶ 22-27 (describing, for example, Trayport as providing a “network and data platform for wholesale energy markets”); Ex. 5 at ¶¶ 13-17 (describing, for example, TSX Alpha as relying on “access to continuous data streams,” including “market data feeds” to execute trades); Ex. 6 at ¶¶ 19-25 (describing, for example, TMX as providing “data for publicly traded equities markets”). This common field of use for all of the accused products weighs in favor of consolidation. *See, e.g., In re Taasera Licensing, LLC, Pat. Litig.*, 619 F. Supp. 3d at 1352-53 (“Undoubtedly, there will be differences in how these products operate and how they allegedly implement the patents-at-issue. But all of the accused products operate in the same field of technology—computer network security.”); *In re RAH Color Techs. LLC Pat. Litig.*, 347 F. Supp. 3d at 1359-60

(centralizing actions involving printers, print servers, and color imaging software as overlapping in the “field of color management technology”).

In any case, “differences in the accused products and infringement allegations in the cases do not prevent centralization where common factual issues involving claim construction and patent invalidity are shared.” *In re Proven Networks, LLC, Pat. Litig.*, 492 F. Supp. 3d at 1339. And to the extent Plaintiffs argue that there are potentially some issues unique to an individual case, “transfer under Section 1407 does not require a complete identity or even a majority of common factual or legal issues as a prerequisite to transfer.” *See In re Acacia Media Techs. Corp. Pat. Litig.*, 360 F. Supp. 2d 1377, 1379 (J.P.M.L. 2005). Instead, consolidation is warranted, even where there are some issues that do not overlap, where consolidation will “eliminate duplicative discovery; prevent inconsistent pretrial rulings (particularly with respect to claim construction); and conserve the resources of the parties, their counsel, and the judiciary.” *In re Taasera Licensing, LLC, Pat. Litig.*, 619 F. Supp. 3d at 1352. That is the case here.

Given the overlap in patents, subject matter, field of use, and infringement allegations, “the actions will share substantial background questions of fact concerning the numerous anticipated arguments related to the validity and enforceability of [the patents] and implicating factual issues concerning such matters as the technology underlying the patent, prior art, priority[,] . . . and/or claim construction.” *In re Bear Creek Techs., Inc.*, 858 F. Supp. 2d at 1379–80. And the Panel has “consistently held that the issue of patent validity presents common questions of fact which satisfy the statutory requirements of § 1407.” *In re Embro Patent Infringement Litig.*, 328 F. Supp. 507, 508 (J.P.M.L. 1971). Thus, the common issues of fact and law weigh in favor of consolidation, which will avoid unnecessary duplicative efforts and provide a streamlined and consistent approach to pretrial procedures.

B. Transfer and Consolidation Will Serve the Convenience of Parties and Witnesses.

Consolidation of these actions will also serve the convenience of parties by eliminating potentially duplicative efforts across multiple jurisdictions and ensuring that witnesses are not subject to multiple depositions across the cases. *See, e.g., In re: Bill of Lading Transmission & Processing Sys. Pat. Litig.*, 626 F. Supp. 2d 1341, 1342 (J.P.M.L. 2009) (noting that centralization before a single judge “ensur[es] that the common parties and witnesses are not subjected to discovery demands that duplicate activity that will or has occurred in other actions”); *In re Kerydin (Tavorole) Topical Sol. 5% Pat. Litig.*, 366 F. Supp. 3d 1370, 1371 (J.P.M.L. 2019) (holding that centralization is warranted, in part due to the “overlapping pretrial obligations” to “reduce costs, and create efficiencies for the parties, courts, and witnesses”).

With three actions spread across three districts, the potential for duplicative discovery is high. Indeed, such discovery will likely involve multiple depositions of fact witnesses, including corporate representatives and third-party depositions (e.g., 20 inventors across eight asserted patents, former employees, and prosecuting attorneys). Moreover, in view of the overlap in patents and subject matter, it is reasonable to expect that at least some of the same experts will offer testimony in more than one proceeding, which will result in duplicative work relating to invalidity, non-infringement, and damages. Similarly, conducting three separate claim construction hearings, with three separate sets of briefs (and potentially three separate sets of expert declarations) would serve no purpose other than to increase the costs to the parties and inconvenience their respective witnesses. Centralization, on the other hand, would ensure a common pretrial schedule, coordinated fact and expert discovery, and a streamlined and consistent framework for addressing schedule modifications, motions practice, claim construction, and summary judgment. This is particularly effective for patent cases like those at issue here because all three district courts are

likely to have different procedures and timelines for, e.g., infringement contentions, invalidity contentions, and claim construction. Thus, informal coordination (as suggested by Plaintiffs in lieu of formal consolidation) would be burdensome and inconvenient, even if the parties endeavor to cooperate.

C. Transfer and Consolidation Will Promote the Just and Efficient Conduct of These Actions.

Transfer and consolidation will promote just and efficient conduct by (1) creating consistency in pretrial rulings, (2) conserving resources at an early stage of the case, and (3) providing a formal framework of coordination that allows a single judge to become familiar with the core issues, complex technology, and accused functionalities at issue.

First, centralization of the three pending actions will promote consistency in pretrial determinations. Three parallel actions—with substantial overlap in factual issues—would unnecessarily create duplicative tasks and issues for adjudication, including discovery disputes, dispositive motions, and the “complex and time-consuming matter of claim construction.” *In re Proven Networks, LLC, Pat. Litig.*, 492 F. Supp. 3d at 1340. In similar circumstances, this Panel recognized that “absent centralization, judges in three different districts will be called upon to become familiar with the asserted patents . . . and rule on substantially the same claim construction and patent validity defenses, which presents a significant risk of inconsistent rulings and unnecessary expenditure of judicial resources.” *See In re Pipe Flashing Pat. Litig.*, 713 F. Supp. 3d 1414, 1415 (J.M.P.L. 2024). The risk of inconsistent rulings is especially acute here, given the complexity of the underlying technology, different local rules, and in all likelihood, different case schedules. *See In re MLR, LLC Pat. Litig.*, 269 F. Supp. 2d 1380, 1381 (J.P.M.L. 2003) (granting transfer and consolidation where cases involved “complex patents relating to data transmission over cellular networks and multi-network and multi-frequency capable cellular phone and/or

modern products”). A single decision maker for all three cases would also ensure that discovery disputes and dispositive motions are handled in a consistent and efficient fashion. *In re Taasera Licensing, LLC, Pat. Litig.*, 619 F. Supp. 3d at 1353 (“The efficiency and convenience benefits of having a single judge streamline discovery and pretrial motion practice . . . warrant centralization in this instance.”).

Second, because the three cases are still at early stages in the litigation, MDL centralization would be particularly beneficial in promoting judicial efficiency. *See In re Neo Wireless, LLC, Pat. Litig.*, 610 F. Supp. 3d 1383, 1385 (J.M.P.L. 2022) (granting consolidation in part because “the common early procedural posture among the actions will facilitate their efficient coordination”). As noted above, all three of the pending actions were filed in January or February 2025. Defendants have moved to dismiss all three complaints, and discovery has not commenced in any of the three cases. A status conference is set for June 11, 2025, in N.D. Ill., and the parties have exchanged competing scheduling proposals, but in D. Del. and E.D. Pa., no Rule 16 conferences have been set. Centralization at this early stage would allow a single judge to become familiar with the fundamental issues in the case and efficiently manage the case from the outset. *See In re Taasera Licensing, LLC, Pat. Litig.*, 619 F. Supp. 3d at 1353 (“There are significant efficiencies to be gained, for both the parties and the judicial system, by having only one court oversee discovery relating to the common patents and conduct claim construction.”); *In re Bear Creek Techs., Inc. (’722) Pat. Litig.*, 858 F. Supp. 2d at 1380 (“[C]entralization offers substantial savings in terms of judicial economy by having a single judge become acquainted with the complex patented technology and construing the patent in a consistent fashion (as opposed to having six judges separately decide such issues).”).

Third, MDL consolidation is the best means for achieving a just and expeditious resolution across these matters. While Plaintiffs have proposed informal coordination, this is a poor substitute for formal consolidation that leaves open the potential for inconsistent rulings and duplicative discovery. See *In re Taasera Licensing, LLC, Pat. Litig.*, 619 F. Supp. 3d at 1353 (finding that informal coordination is not practicable where the actions “involve complex technology patents that will require substantial time and effort by the courts when claim terms are construed” and the “outcome of the pending motions to dismiss . . . remains too uncertain for us to conclude that they offer a reasonable prospect of eliminating the multidistrict character of this litigation”). In contrast, centralization “place[s] all actions in this docket before a single judge who can structure pretrial proceedings to accommodate all parties’ legitimate discovery needs while ensuring that the common parties and witnesses are not subjected to discovery demands that duplicate activity that will or has occurred in other actions.” *In re: Bill of Lading Transmission & Processing Sys. Pat. Litig.*, 626 F. Supp. 2d at 1342. There is no need to leave coordination up to chance when there is no prejudice to Plaintiffs proceeding in a single forum, and where informal coordination, even at its best, would still necessitate burdening three different courts with overlapping factual and legal issues and fail to eliminate the potential for inconsistent results and duplicative discovery.

D. The Three Pending Cases Should Be Consolidated in the District of Delaware.

While Defendants believe that consolidation of the three pending cases in any forum would promote the goals of efficiency and justice, Defendants respectfully request that the cases be consolidated in the District of Delaware. When selecting a particular transferee forum, this Panel has considered a variety of factors, including, for example: (1) where actions are currently pending; (2) where relevant evidence is located; (3) geographic convenience and accessibility of the district;

and (4) the court’s familiarity with the issues, including the judge’s experience with complex patent litigation. *See In re Proven Networks, LLC, Pat. Litig.*, 492 F. Supp. 3d at 1340 (assigning multidistrict litigation to a judge who had related cases pending within his district); *In re RAH Color Techs. LLC Pat. Litig.*, 347 F. Supp. 3d at 1360 (assigning multidistrict litigation to a district where the headquarters for two of the three accused infringers were located); *In re Taasera Licensing, LLC, Pat. Litig.*, 619 F. Supp. 3d at 1353 (assigning multidistrict litigation to a judge who is “well-versed in complex patent litigation”); *In re Neo Wireless, LLC, Pat. Litig.*, 610 F. Supp. 3d at 1385 (factoring convenience and accessibility into transferee forum selection).

Each of these factors points toward the District of Delaware as the most appropriate forum in which to proceed. *First*, one of the three pending actions is already filed there, and since each of the remaining forums also presides over only one case, there is no better alternative based on the number of pending actions. *See In re Ozempic (Semaglutide) Pat. Litig.*, 621 F. Supp. 3d 1354, 1356 (J.P.M.L. 2022) (centralizing proceedings before a judge who was already presiding over at least one pending action).

Second, the District of Delaware is a central hub across the litigations. Plaintiff Sybase and Defendant TSX Alpha are both Delaware corporations. Ex. 4 at ¶ 4. Overall, the District of Delaware is geographically closer to Toronto, Canada (where TMX Group is headquartered); London, England (where Trayport is headquartered); Walldorf, Germany (where SAP is headquartered); and Dublin, Ireland (where Business Objects is headquartered) than the Northern District of Illinois. Ex. 4 at ¶¶ 2, 5; Ex. 6 at ¶ 4. The District of Delaware is also near TSX Alpha’s headquarters in New York.⁶ Ex. 5 at ¶ 4. Moreover, Plaintiffs cannot argue that the District of

⁶ Defendants recognize that the Eastern District of Pennsylvania is also closer to these entities than the District of Delaware. However, Defendants maintain that the District of Delaware is a more

Delaware is an inconvenient forum when they affirmatively decided to file suit against TSX Alpha there.

Third, both the District of Delaware generally and Judge Noreika specifically (who is currently presiding over *SAP SE & Sybase, Inc. v. TSX Alpha U.S., Inc.*, 1:25-cv-00232) have extensive experience with the procedural and substantive issues likely to arise in this litigation. Across all judges, the District of Delaware has seen upwards of 11,500 patent cases—more than both of the other districts where actions are pending combined. Ex. 20 (Lex Machina Report – Patent Cases by District). Judge Noreika, having presided over more than 1,200 patent cases, is adept at steering these types of complex cases through resolution. *See In re Sitagliptin Phosphate ('708 & '921) Pat. Litig.*, 402 F. Supp. 3d 1366, 1367 (J.P.M.L. 2019) (“We are confident that [the transferee judge], who is well-versed in complex patent litigation, will steer this matter on a prudent course.”); Ex. 21 (Lex Machina Report – Judge Noreika Case History). Over the course of her career, Judge Noreika has presided over 130 claim construction hearings and over 40 patent trials. *Id.* Despite her considerable expertise in handling patent cases, Judge Noreika does not appear to have presided over any MDL. Thus, assigning this MDL to Judge Noreika would also afford the Panel the opportunity “to assign this litigation to a jurist who has not yet had the opportunity to preside over an MDL.” *In re Ermi LLC Pat. Litig.*, 396 F. Supp. 3d 1358, 1360 (J.P.M.L. 2019); *see also In re Sorin 3T Heater-Cooler Sys. Prod. Liab. Litig. (No. II)*, 289 F. Supp. 3d 1335, 1337 (J.P.M.L. 2018) (“[The transferee judge] is an experienced jurist who has not had the opportunity to preside over an MDL.”).

suitable jurisdiction because TSX Alpha and Sybase are incorporated there, and Judge Noreika has significant experience with patent litigation, as discussed herein.

V. CONCLUSION

For the reasons set forth above, Defendants respectfully request that all pending actions be transferred to the United States District Court for the District of Delaware for consolidated and coordinated pretrial proceedings, pursuant to 28 U.S.C. § 1407.

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