

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABSOLUTE SOFTWARE, INC., et al.,

Plaintiffs,

v.

STEALTH SIGNAL, INC., et al.,

Defendants.

CASE NO. C04-2175JLR

ORDER

I. INTRODUCTION

This matter comes before the court on Defendant Stealth Signal’s Dispositive Motion to Dismiss or in the Alternative to Transfer (Dkt. # 10), and Defendant Computer Security Products’ Motion to Join Dispositive Motions to Dismiss or in the Alternative to Transfer (Dkt. # 21). Having read and considered all papers filed in support of and in opposition to these motions, the court DENIES Defendant Stealth Signal’s motion to dismiss for lack of personal jurisdiction, GRANTS Defendant’s alternative motion to transfer based on venue, and DENIES Defendant Computer Security Products’ motion to join as moot.

II. BACKGROUND

Plaintiff Absolute Software, Inc. (“Absolute Software”), is a Washington corporation with its principal place of business in Washington. Absolute Software is a

1 subsidiary of Plaintiff Absolute Software Corporation (“Absolute Canada”)¹, a Canadian
2 corporation with its principal place of business in British Columbia, Canada. Absolute
3 Canada owns the patents at issue in this case. In September 2004, two months before
4 filing this suit, Absolute Canada granted Absolute Software “all rights, remedies and
5 causes of action” for infringement of the Absolute Patents, as well as the exclusive right
6 to enforce the Absolute Patents in the United States, for one year. Livingston Decl. at 7,
7 Ex. A at 9. Absolute Canada, however, reserved the right to control the litigation
8 regarding issues of claim construction and validity. Id. Ex. B at 16.

10 Defendant Stealth Signal (“Stealth”) is incorporated in Nevada with its principal
11 place of business in Houston, Texas. Stealth’s primary business is the sale and servicing
12 of computer security software which it sells through resellers and on the internet.
13 Although Stealth is not registered to do business in Washington and does not have an
14 office or employees in Washington, it has sold \$4,185 of products and services to
15 Washington residents in the last year. Camargo Decl. at 2. Defendant Computer Security
16 Products (“CSP”) is presently a reseller of Stealth’s products and has sold Absolute’s
17 products in the past.

19 In October 2003 and April 2004, Absolute Canada sent Stealth a patent
20 infringement notice. In October 2004, Absolute Software and Absolute Canada brought
21 this patent infringement action against Stealth. The complaint alleges that Stealth is
22 infringing on patents owned and licensed by Absolute Canada. Stealth has filed the
23 current motion to dismiss, arguing that this court lacks personal jurisdiction, and in the
24 alternative, that this court should transfer this action to the Southern District of Texas

27 ¹Absolute Software, Inc. will be referred to as “Absolute Software,” Absolute Software
28 Corporation will be referred to as “Absolute Canada,” and when no distinction between the two is
necessary, “Absolute” will refer to both Plaintiffs in general.

1 where venue is proper. CSP joins in this motion and has filed a corresponding motion to
2 dismiss for lack of personal jurisdiction, or in the alternative, to transfer.

3 III. DISCUSSION

4 A. Stealth’s Motion to Dismiss for Lack of Personal Jurisdiction

5 1. Legal Standard

6 Federal Circuit law governs the determination of personal jurisdiction in patent
7 infringement actions. 3D Sys. Inc., v. Aarotech Lab., Inc., 160 F.3d 1373, 1377-78 (Fed.
8 Cir. 1998). The court’s exercise of personal jurisdiction over a nonresident defendant
9 must comport with both the forum state’s long-arm statute and federal due process. Id. at
10 1376-77. Given that Washington’s long-arm statute extends jurisdiction to the limit of
11 federal due process, this court must only ensure that exercising jurisdiction satisfies the
12 requirements of due process under the Constitution. Chan v. Society Expeditions, Inc.,
13 39 F.3d 1398, 1405 (9th Cir. 1994). Federal due process requires that nonresident
14 defendants have sufficient minimum contacts with the forum state such that the exercise
15 of jurisdiction will not offend “traditional notions of fair play and substantial justice.”
16 Int’l Shoe Co. v. Washington, 326 U.S. 310, 316 (1945). The policy behind the rule is to
17 provide a degree of predictability which allows a potential defendant to have fair warning
18 of when their activities may render them liable to suit in a foreign sovereign. Burger
19 King Corp. v. Rudzewicz, 471 U.S. 462, 472 (1985).

20 A nonresident defendant may satisfy the “minimum contacts” standard if it has
21 continuous and systematic presence in the forum state (resulting in “general
22 jurisdiction”), or if the plaintiff’s claim arises out of the defendant’s forum-related
23 activities (resulting in “specific jurisdiction”). Red Wing Shoe Co., Inc. v. Hockerson-
24 Halberstadt, Inc., 148 F.3d 1355, 1359 (Fed. Cir. 1998). Specific jurisdiction exists when
25 a nonresident defendant (1) purposefully directs (“avails”) its activities at residents of the
26
27
28

1 forum; (2) the claim arises out of or relates to those activities; and (3) the assertion of
2 personal jurisdiction is fair and reasonable. Akro Corp. v. Luker, 45 F.3d 1541, 1545-46
3 (Fed. Cir. 1995). The Federal Circuit has applied a “stream of commerce” theory to
4 establish purposeful availment. Viam Corp. v. Iowa Export-Import Trading Co., 84 F.3d
5 424, 427 (Fed. Cir. 1996). Under this theory, courts may properly assert personal
6 jurisdiction over a corporation that “delivers its products into the stream of commerce
7 with the expectation that they will be purchased by consumers in the forum state.”
8 World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 297-98 (1980).

10 Even where personal jurisdiction has been shown to otherwise comport with due
11 process, the defendant may still present a compelling case that the presence of other
12 considerations, such as substantial inconvenience, would render justice unreasonable.
13 Burger King Corp., 471 U.S. at 477. “[J]urisdictional rules may not be employed in such
14 a way as to make litigation ‘so gravely difficult and inconvenient’ that a party unfairly is
15 at a ‘severe disadvantage’ in comparison to his opponent.” Id. at 478 (citing Bremen v.
16 Zapata Off-Shore Co., 407 U.S. 1, 18 (1972); McGee v. Int’l Life Ins. Co., 355 U.S. 220,
17 223-24 (1957)).

19 **2. Stealth is Subject to Personal Jurisdiction in this District.**

20 Stealth argues that this case should be dismissed for lack of personal jurisdiction
21 or, in the alternative, transferred to the Southern District of Texas, Houston Division,
22 because (1) neither Defendant nor Absolute Canada (assignee and owner of the submitted
23 patents) have relevant contacts in Washington; (2) the accused products are manufactured
24 outside of Washington; (3) any infringement of the patents did not occur in connection
25 with Stealth doing business in Washington; and (4) the knowledgeable witnesses and
26 documents are located in Texas, Los Angeles, California or Canada. Absolute, on the
27 other hand, argues that Stealth’s motion should be denied and that personal jurisdiction
28

1 exists because (1) Stealth purposefully directed its activities at residents of Washington
2 by placing its product in a stream of commerce that included Washington; (2) the claim
3 arises out of Stealth’s activities in Washington; and (3) the exercise of personal
4 jurisdiction in this case is both fair and reasonable.

5
6 **a. Stealth purposefully directed its activities at Washington residents.**

7 Neither party disputes that Stealth has done \$4,185 of business with Washington
8 residents in the last year. According to Absolute’s calculation, Stealth has sold between
9 85 and 140 units of its infringing software to Washington residents and therefore has
10 ongoing customer relationships with between 85 and 140 residents.² Pl.’s Resp. at 3.
11 Absolute argues that these sales satisfy the “purposeful availment” requirement of
12 specific jurisdiction.
13

14 Stealth, on the other hand, argues that it has not purposefully directed activity
15 towards the State of Washington. It asserts that it has no office, employees, or
16 registration to do business in Washington, and that no retail locations or independent
17 resellers are located in Washington. Def.’s Mot. at 2. However, none of the factors
18 Stealth points to are determinative.

19
20 In Beverly Hills Fan v. Royal Sovereign Corp., the Federal Circuit held that
21 personal jurisdiction existed even though, as in the case here, the defendant was not a
22 resident of Virginia (the state it was sued in), did not have offices, assets or employees in
23 Virginia, was not registered to do business there, and did not directly ship the accused
24

25
26 ²Stealth objects to the inference that \$4,185 equates to 85 to 140 customers and argues
27 that in a license sale, one license could mean the sale of 85 copies of a single piece of software to
28 one customer. Def.’s Reply at 10. However, rather than clarify the record, Stealth also argues
that even if it had potentially on-going relationships with 85 customers to whom it potentially sold
85 units of software, the fact that it only generated \$4,185 of sales makes these contacts
insubstantial. Id.

1 product there. 21 F. 3d 1558 (Fed. Cir. 1994). The court found that personal jurisdiction
2 existed because the defendant, who sold fans in Virginia through a retailer, had placed the
3 fans into a stream of commerce that it knew, or reasonably could have foreseen, would
4 cause the products to end up in Virginia, and because it had ongoing customer
5 relationships with Virginia residents by nature of the product’s warranty. Id. at 1564.

6
7 As in Beverly Hills Fan, Stealth placed its product into a stream of commerce that
8 it knew, or reasonably could have foreseen, would cause the products to end up in
9 Washington, and has an ongoing customer relationship with Washington residents by
10 nature of its service contract of monitoring and tracking its customers’ laptop computers.
11 For these reasons, the court finds that Stealth has purposefully directed its activities at
12 Washington residents.³

13
14 **b. The claim arises out of Stealth’s activities in Washington.**

15 Absolute’s infringement claim arises out of Stealth’s activities in Washington
16 because Stealth sold its software and provided its services in Washington, forming the
17 basis for the alleged infringement. Compl. at 4. Stealth argues that the alleged
18 infringement did not occur in Washington because nobody from Stealth traveled to
19 Washington for the purpose of developing an infringing product. Further, Stealth argues
20 that it did not conduct communications in Washington that were related to the
21 development of the infringing product. Def.’s Mot. at 8-9. Stealth’s arguments are
22

23
24
25 ³Stealth urges the court to follow Beverly Hills Fan and consider the amount of revenue
26 generated in the state and to hold that because \$4,185 is insubstantial, the first prong of specific
27 jurisdiction has not been satisfied. Def.’s Reply at 10. However, the amount of revenue
28 generated in the state is not a determinative factor in the jurisdictional inquiry. The Beverly Hills
Fan court considered the revenue generated in the state only in its analysis of Virginia’s long-arm
statute which lists “deriving substantial revenue” as a factor of the court exercising personal
jurisdiction. Beverly Hills Fan Co. v. Royal Sovereign Corp., 21 F.3d 1558, 1569 (Fed. Cir.
1994). Washington’s long-arm statute does not demand this inquiry. RCW 4.28.185.

1 misguided.⁴ Here, it is undisputed that Stealth sold its software and services in
2 Washington, forming the basis for the alleged infringement. Thus, Absolute’s claim
3 arises out of or relates to Stealth’s activities in Washington.

4 **c. The exercise of personal jurisdiction is fair and reasonable.**

5 Even where the requisite minimum contacts exist under the stream of commerce
6 theory, there are rare situations in which “the plaintiff’s interest and the state’s interest in
7 adjudicating the dispute in the forum are so attenuated that they are clearly outweighed
8 by the burden of subjecting the defendant to litigation within the forum.” Beverly Hills
9 Fan, 21 F.3d at 1568. This is not one of those rare situations. Similar to Beverly Hills
10 Fan, Washington has an interest in discouraging injuries that occur within the state, and
11 this interest extends to patent infringement actions such as the one here. Id. at 1568
12 (finding that Virginia has an interest in discouraging injuries that occur within the state as
13 well as an interest in cooperating with other states to provide a forum for efficiently
14 litigating plaintiff’s cause of action).

15 Stealth argues that this court’s exercise of personal jurisdiction would be unfair
16 and unreasonable because: (1) Stealth has not purposefully directed its activities
17 involving the accused products towards Washington; (2) neither the evidence nor the
18

19
20
21
22 ⁴Stealth’s arguments stem from Electronics for Imaging, Inc. v. Coyle, where the court
23 found personal jurisdiction existed based on the infringing developers’ travel to the forum state
24 when developing the infringing product and communications related to the development of the
25 infringing product that were made to individuals in the forum. 340 F.3d 1344 (Fed. Cir. 2003).
26 Stealth’s reliance on Electronics is misplaced. In Electronics, the defendant’s travel to and
27 communications in the forum state formed the basis for the court’s determination that the
28 defendant purposefully directed activities there, and because those contacts related to the
plaintiff’s claim, the court held that minimum contacts existed. Id. at 1351. Here, Stealth’s
placing its products into the stream of commerce, and thus into Washington, establishes
“purposeful availment,” and because the sale of its product forms the basis for the alleged
infringement, the court finds that the claim arises out of Stealth’s activities in Washington.

1 witnesses in this case have any connection with Washington; and (3) the real party at
2 interest is the foreign patent owner, Absolute Canada, and no injuries occurred to
3 Absolute Canada in Washington.⁵ Stealth’s arguments are unavailing. First, the court has
4 previously established that Stealth purposefully directed its activities toward Washington.
5 Second, Stealth cites no authority for its contention that the location of evidence and
6 witnesses bear on personal jurisdiction and the court considers this argument below on
7 Stealth’s motion to transfer. Finally, both Absolute Canada and Absolute Software are
8 plaintiffs in this matter alleging that Stealth infringed on Absolute Canada’s patents in
9 Washington. Even assuming Absolute Canada is the real party of interest in this matter,
10 as Stealth contends, there is no reason to assume that Absolute Canada was not injured in
11 Washington given its status as the parent corporation and its allegation that Stealth
12 infringed on the patents it owns.
13

14 Finally, Stealth argues that based on what it knew about the owner of the patents at
15 issue, specifically that Absolute Canada publicly held itself out as doing business in
16 Canada, it had a reasonable expectation that it would be sued by Absolute in the district
17 where Stealth resides. Def.’s Reply at 3-4. However, the law clearly states that “[i]f the
18 sale of a product of a manufacturer or distributor . . . is not simply an isolated occurrence,
19 but arises from the efforts of the [defendants] to serve, directly or indirectly, the market
20 for its product . . . it is not unreasonable to subject it to suit.” Beverly Hills Fan Co., 21
22

23
24
25
26 ⁵Stealth points to Absolute Software’s End User License Agreement (EULA) which states
27 that Absolute Canada is the Licensor for Absolute Software. On this basis, Stealth argues that if
28 Absolute Canada can continue to grant licenses for Absolute’s software, then Absolute
Software’s license is not exclusive (as it alleges), or in the alternative, does not cover sales and
revenues. Def.’s Mot. at 11. According to Stealth, this proves that Absolute Software’s interest
in the patents have not suffered any harm and that the only injured party is Absolute Canada.

1 F.3d at 1566 (citing World-Wide Volkswagen, 444 U.S. at 297).⁶ Similar to the case in
2 Beverly Hills Fan, Plaintiffs allege that Stealth purposefully shipped the accused software
3 into Washington and the cause of action for patent infringement is alleged to arise out of
4 these activities. “No more is usually required to establish specific jurisdiction.” Beverly
5 Hills Fan Co., 21 F.3d at 1565. The court DENIES Stealth’s motion to dismiss for lack
6 of personal jurisdiction because Stealth purposefully directed its activities at Washington
7 residents, the claim arises out of those activities, and the court’s assertion of personal
8 jurisdiction is fair and reasonable.
9

10 **B. Stealth’s Alternative Motion to Transfer Based on Venue**

11 As an alternative to its motion to dismiss for lack of personal jurisdiction, Stealth
12 argues that the court should transfer this action to the U.S. District Court for the Southern
13 District of Texas, Houston Division, under 28 U.S.C. § 1404(a).

14 **1. Legal Standard**

15 A district court may transfer a civil action to another district where it might have
16 been brought if it is for the parties’ and witnesses’ convenience and in the interest of
17 justice. 28 U.S.C. § 1404(a). In civil patent infringement suits, venue is proper “in the
18 judicial district where the defendant resides, or where the defendant has committed acts
19 of infringement and has a regular and established place of business.” 28 U.S.C. §
20 1400(b).⁷ Under Section 1404(a), the court has broad discretion to decide when
21 considerations of convenience and fairness warrant a transfer of venue. Jones v. GNC
22
23

24 ⁶Stealth’s final argument is that the sole purpose of Absolute Canada’s assignment of
25 litigation rights to Absolute Software was merely to have Stealth haled into court in Washington,
26 and that as a matter of policy, this court should not condone such behavior. However, Stealth
27 fails to provide any authority for this contention and, as such, the court is unwilling to accept it.

28 ⁷Given that Stealth’s headquarters are in Texas and that the accused product at issue here
was manufactured and designed in Texas, the court finds that this action could have properly been
brought in the Southern District of Texas.

1 Franchising, Inc., 211 F.3d 495, 498 (9th Cir. 2000). Nonetheless, the transfer must be
2 “to a more convenient forum, not to a forum likely to prove equally convenient or
3 inconvenient.” Van Dusen v. Barrack, 376 U.S. 612, 645-46 (1964). Consequently, the
4 burden is on Stealth to demonstrate that the Southern District of Texas provides a *more*
5 convenient forum for this suit than the Western District of Washington.

6
7 In the Ninth Circuit, the court must weigh multiple factors to determine whether
8 transferring venue is appropriate under § 1404(a): (1) the location where the relevant
9 agreements were negotiated and executed; (2) the state that is most familiar with the
10 governing law; (3) the plaintiff’s choice of forum; (4) the respective parties’ contacts with
11 the forum; (5) the contacts relating to the plaintiff’s cause of action in the chosen forum;
12 (6) the differences in the costs of litigation in the two forums; (7) the availability of
13 compulsory process to compel attendance of unwilling non-party witnesses; and (8) the
14 ease of access to sources of proof. Id.

15
16 **2. The Jones Factors Favor a Transfer of Venue.**

17 **a. Location where the relevant agreements were negotiated and**
18 **executed**

19 The case at bar is a patent infringement suit and does not involve the negotiation
20 or execution of agreements. The court finds this factor neutral with respect to venue.

21
22 **b. State most familiar with governing law**

23 Since the present case arises solely under U.S. patent law and is exclusively within
24 the jurisdiction of federal district courts under 28 U.S.C. §§ 1331 and 1338(a), the court
25 finds the second Jones factor neutral with respect to venue.

26 **c. Plaintiff’s choice of forum**
27
28

1 There is generally a presumption in favor of the plaintiff’s choice of forum. Gulf
2 Oil Corp. v. Gilbert, 330 U.S. 501, 508 (1947). However, a plaintiff’s choice of forum is
3 given less consideration where the case has “little connection with the chosen forum.”
4 Newcomb v. Daniels, Saltz, Mongeluzzi & Barrett, Ltd., 847 F. Supp. 1244, 1246 (D.N.J.
5 1994); see also Chrysler Capital Corp. v. Woehling, 663 F. Supp. 478, 482 (D. Del.
6 1987) (holding that the plaintiff’s choice of forum will be given considerably less weight
7 if the forum lacks any significant contact to the plaintiff or the subject matter of the suit).
8 In the present case, Stealth does not have a place of business in Washington, the design,
9 development, and manufacture of the accused products allegedly occurred outside of
10 Washington, and the knowledgeable witnesses and documents are located outside of
11 Washington. Further, the owner of the patents at issue is Absolute Canada, located in
12 British Columbia, Canada. The only connection that this case has with Washington is the
13 fact that Absolute Software is located in Washington and has the exclusive right to bring
14 this action to enforce the Absolute Patents. The court finds that this factor is at best
15 neutral, tending toward being in favor of transferring venue.
16
17

18 **d. Parties’ contacts with the forum**

19 Although patent owner Absolute Canada’s principal place of business and
20 employees are located in Vancouver, Canada, Absolute Software is incorporated in
21 Washington. Absolute Software handles the sales of Absolute’s products in the U.S. and
22 the payments to Absolute’s U.S. employees. Furthermore, it retains corporate counsel in
23 Washington and it has customers and business providers who reside in Washington.
24

25 Stealth’s contacts with Washington, however, are limited. Stealth has sold \$4,185
26 in products to Washington residents, but it does not maintain an office in Washington.
27 Further, it has not designed, conceived or developed any of its products in Washington.
28 Stealth has no office, employees, property, bank accounts, or agent for service of process

1 in Washington. Given that both parties' contacts with Washington are relatively minimal,
2 the court finds that this factor weighs in favor of transfer.

3 **e. Contacts relating to Plaintiff's cause of action in Washington**

4 Absolute contends that the parties' contacts in Washington relating to this cause of
5 action are significant because Absolute Software, the Washington entity, owns the
6 exclusive right to enforce the Absolute Patents and because Stealth sold products to
7 consumers in this state. Yet, Stealth's contacts with Washington, as they relate to
8 Absolute's cause of action, are minimal. Stealth's only contacts relating to this suit are
9 its sale of the allegedly infringing product in Washington and its alleged ongoing service
10 contracts in Washington. Sales alone are not enough to establish a material connection to
11 the forum. Fairchild Semiconductor Corp. v. Nintendo Co., 810 F. Supp. 173 (D.S.C.
12 1992); Matra Et Manurhin v. Int'l Armament Co., 628 F. Supp. 1532, 1536 (S.D.N.Y.
13 1986) (finding that although defendant sold substantially more of the accused products in
14 the plaintiff's chosen forum, because defendant sold nationwide, those sales were not
15 sufficient to establish a material connection with the chosen forum). The court finds that
16 because Stealth sells its products nationwide, its sale of products in Washington is
17 insufficient to establish a material connection to this forum for purposes of venue.⁸ Thus,
18 this Jones factor also weighs in favor of transfer.

19 **f. Differences in the costs of litigation in the two forums**

20 Neither party presents arguments to the court with regard to this factor, therefore
21 the court finds it neutral with respect to venue.
22
23
24

25 _____
26 ⁸Although Absolute argues that Stealth's alleged ongoing customer relationships with
27 Washington residents constitutes more than "sales alone," this argument is unavailing in the
28 context of a nationwide distributor. If sales alone and resulting customer relationships are
sufficient alone to establish a material connection, then Stealth would be deemed to have a
material connection to every forum in the country by nature of its nationwide sales.

1 **g. Availability of compulsory process to compel attendance of**
2 **unwilling non-party witnesses**

3 The attendance of non-party witnesses at trial may be compelled only by issuing
4 subpoenas in the judicial district where the trial will take place or at any location outside
5 the district if that location is within 100 miles of the trial location. Fed. R. Civ. P.
6 45(b)(2). The parties' pleadings indicate that witnesses in this matter reside in Texas,
7 Vancouver, Canada, Los Angeles, California, and New Hampshire. Pl.'s Resp. at 16.
8 Neither party has identified testifying witnesses who reside in Washington. Given that
9 the Western District of Washington may not compel non-party witnesses to appear under
10 Fed. R. Civ. P. 45(b)(2) and that none of the witnesses appear to reside in this district, the
11 court finds that this factor weighs in favor of transfer.
12

13 **h. Ease of access to sources of proof**

14 Stealth argues that Texas is the most convenient forum because the accused
15 products were developed and manufactured in Texas and because Stealth's potential fact
16 witnesses, documentary and physical evidence are primarily in Texas. In contrast,
17 Absolute asserts that Washington is the more convenient forum because its potential fact
18 witnesses are primarily in Vancouver, Canada, and Los Angeles, California. Further,
19 Absolute notes that CSP, one of Stealth's resellers, is based in New Hampshire and
20 presumably has all its relevant materials there. None of the parties, however, identify
21 potentially relevant documents or witnesses located in Washington. Whether this action
22 is litigated in Washington or Texas, patent owner Absolute Canada and CSP will have to
23 transport their materials. Thus, the court finds that this factor weighs in favor of transfer.
24

25 Taken as a whole, the Jones factors support transferring this action to the Southern
26 District of Texas, Houston Division. The court DENIES, without prejudice, Absolute's
27 request for limited discovery on the personal jurisdiction and venue questions. The court
28

1 has an adequate record to rule on personal jurisdiction. Additional issues regarding venue
2 are properly left to the transferee court.

3 **IV. CONCLUSION**

4 For all of the reasons stated above, the court DENIES Stealth's motion to dismiss
5 for lack of personal jurisdiction and GRANTS its alternative motion to transfer this action
6 to the Southern District of Texas, Houston Division (Dkt. # 10). The court DENIES
7 CSP's motion to dismiss, or in the alternative to transfer, as moot (Dkt. # 21).
8

9 Dated this 7th day of March, 2005.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

s/James L. Robart

JAMES L. ROBART
United States District Judge