EXHIBIT 3

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

UNILOC USA INC., et al.,	§	
Plaintiffs,	§	
	§	Case No. 2:16-cv-00862-RWS
v.	§	LEAD CASE
	§	
NETSUITE, INC.,	§	
NUTANIX, INC.,	§	Case No. 2:16-cv-01193-RWS
Defendants.		

PLAINTIFFS' OPENING CLAIM CONSTRUCTION BRIEF

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Plaintiffs ("Uniloc") have asserted claims from four IBM patents, directed towards four different inventions, with each invention relating to a particular portion of a distributed computer network. The patents are largely independent. A company could infringe a patent covering one portion of its network, but not infringe a second patent covering a second portion, if that company chose not to use the invention of the second patent in that second portion.

The '466 patent[1] describes methods of managing application programs. The claims of the '466 patent are directed to methods, systems, and products for *downloading* applications to an individual computer terminal ("client") for execution at that client. Thus, all of the claims of the '466 patent incorporate specific language requiring downloading of applications to the client for execution, namely: "providing an instance of the… application… to the client for execution." Because those claims have that specific language, there appears to be very little disagreement between the parties as to how the claims of the '466 patent should be construed.

But the claims of the '578[2] patent are directed towards a different invention, which invention can be practiced in networks where applications are not downloaded to clients, and execution is instead at a server. For that reason – and in sharp contrast to the claims of the '466 patent filed on the same day – the IBM inventors omitted from the claims of the '578 patent any language that would require downloading to, or execution at, the client.

The principal claim construction dispute in these cases, as well as in earlier cases, arises from the effort by defendants to persuade the Court to read into the claims of the '578 patent limitations found only in the '466 patent claims.

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[1] U.S. Patent No. 6,510,466 (Ex. A).

[2] U.S. Patent No. 6,324,578 (Ex. B).

OVERVIEW OF THE PATENTS

The '578 patent describes (what were in 1998) innovative methods of managing configurable application programs on a computer network for a large enterprise.[3] The '466 patent also describes methods of managing patent applications, but the written description of that patent differs from the '578 disclosure.[4]

Both the '578 and '466 disclosures describe a computer network, which connects each individual user's computer terminal ("client terminal," or simply "client") to a remote server ("server") responsible for supporting that client, as well as for supporting a number of other clients. The network, in turn, connects the remote servers to a central network management server. FIG. 1 of the '466 patent graphically illustrates this server/client arrangement:

FIG. 1

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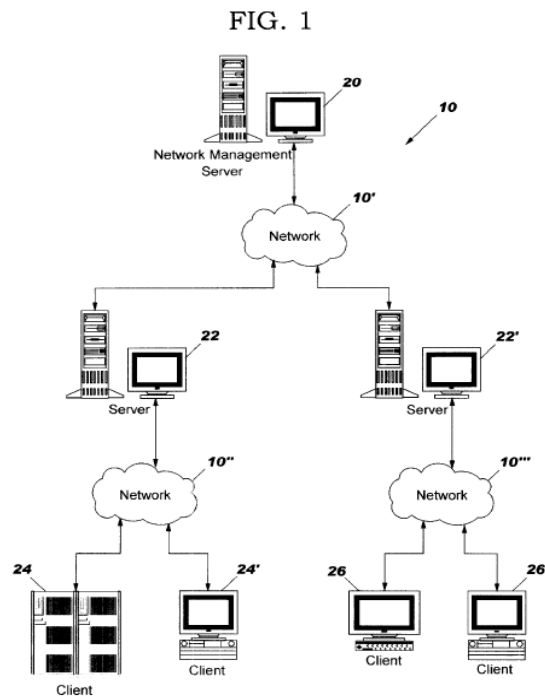
[3] The IBM inventors filed the '766 patent (U.S. Patent No. 6,728,766 (Ex. C)) as a divisional of the '578, and thus it has the identical written description ("the '578 disclosure").

[4] The IBM inventors filed the '293 patent (U.S. Patent No. 7,069,293 (Ex. D)) as a divisional of the '466, and thus it has a written description identical to that of the '466 ("the '466 disclosure").

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