Trials@uspto.gov
571-272-7822

Paper No. 9
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS INC.,
Petitioner

v.

UNILOC USA, INC. and UNILOC LUXEMBOURG S.A.,
Patent Owners.

Case IPR2017-00184
Patent 7,069,293 B2

Before SALLY C. MEDLEY, J. JOHN LEE, and JESSICA C. KAISER, *Administrative Patent Judges*.

KAISER, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
37 C.F.R. § 42.108

Unified Patents Inc. ("Petitioner") filed a Petition pursuant to 35 U.S.C. §§ 311–19 to institute an *inter partes* review of claims 1–21 of U.S. Patent No. 7,069,293 B2, issued on June 27, 2006 (Ex. 1001, "the '293 patent"). Paper 1 ("Pet."). Uniloc USA, Inc. and Uniloc Luxembourg S.A.[1] ("Patent Owner") filed a preliminary response. Paper 8 ("Prelim. Resp."). Applying the standard set forth in 35 U.S.C. § 314(a), which requires demonstration of a reasonable likelihood that Petitioner would prevail with respect to at least one challenged claim, we deny Petitioner's request and do not institute an *inter partes* review of any challenged claim.

I. BACKGROUND

A. The '293 Patent (Ex. 1001)

The '293 patent relates to centralized control of software distribution for a computer network managed by a network management server. Ex. 1001, 4:14–16. Figure 1 of the '293 patent is reproduced below.

[1] Petitioner states Uniloc USA, Inc. is the exclusive licensee of the challenged patent. Pet. 1. Although the Preliminary Response initially identifies only Uniloc Luxembourg S.A. as the patent owner (Prelim. Resp. 1), its Mandatory Notice identifies both Uniloc USA, Inc. and Uniloc Luxembourg S.A. as Patent Owner in this case. Paper 7, 1.

FIG. 1

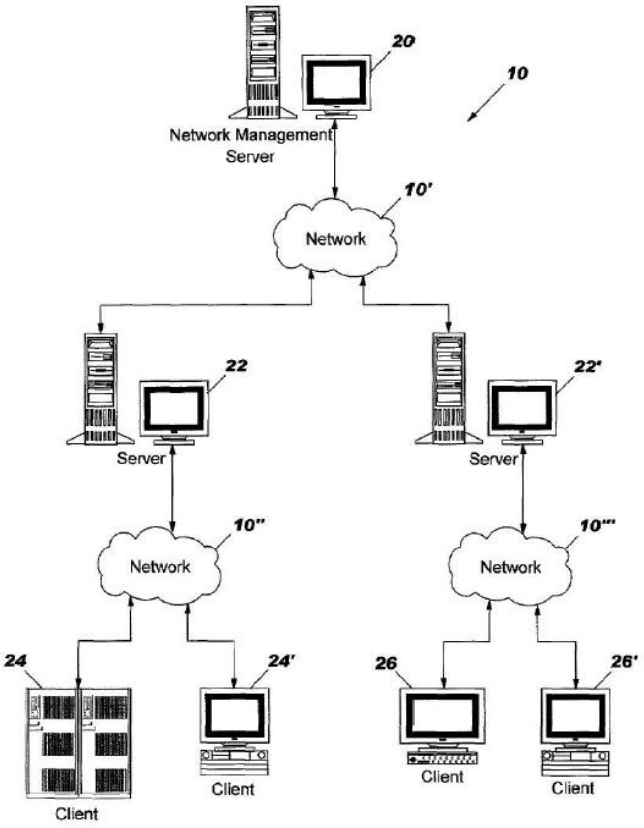

Figure 1 illustrates a computer network according to an embodiment of the invention. *Id*. at 6:60–63. In particular, network management server 20 is connected to on-demand servers 22 and 22' which are in turn connected to client stations 24 and 24' and 26 and 26' respectively. *Id*. at 6:63–7:9. The '293 patent describes a method of distributing software from the network management server to the on-demand servers. *Id*. at 17:20–18:36.

B. Illustrative Claim

Claims 1, 12, and 17 are independent. Claim 1 is illustrative of the challenged claims, and is reproduced below:

> 1. A method for distribution of application programs to a target on-demand server on a network comprising the following

> executed on a centralized network management server coupled to the network:
>
> providing an application program to be distributed to the network management server;
>
> specifying a source directory and a target directory for distribution of the application program;
>
> preparing a file packet associated with the application program and including a segment configured to initiate registration operations for the application program at the target on-demand server; and
>
> distributing the file packet to the target on-demand server to make the application program available for use by a user at a client.

Id. at 21:22–36.

C. Related Proceedings

Petitioner identifies a number of related lawsuits involving the '293 patent filed in the Eastern District of Texas. Pet. 1–3. Patent Owner identified only some of those lawsuits as related matters. Paper 7, 2.

D. Claim Construction

In an *inter partes* review, claim terms in an unexpired patent are construed according to their broadest reasonable interpretation in light of the specification of the patent in which they appear. *See* 37 C.F.R. § 42.100(b); *Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2144–46 (2016). Under that standard, claim terms are generally given their ordinary and customary meaning, as would be understood by one of ordinary skill in the art in the context of the entire disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007).

Petitioner offers constructions of a number of claim terms in its Petition. Pet. 13–19. Patent Owner responds that "the parties' present disputes make it unnecessary to construe the terms Petitioner proposes."

Prelim. Resp. 15. Nevertheless, Patent Owner disputes several of Petitioner's proposed constructions. *Id.* at 16–23. For purposes of this decision, we need not construe any terms. *See Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999) (holding that "only those terms need be construed that are in controversy, and only to the extent necessary to resolve the controversy").

E. References

Petitioner relies on the following references:

1. "Collins" (U.S. Patent No. 5,845,090; issued Dec. 1, 1998) (Ex. 1003);
2. "On-Demand Handbook" (*Workspace On-Demand Handbook*, IBM International Technical Support Organization (December 1997)) (Ex. 1004);
3. "Gupta" (U.S. Patent No. 6,446,109 B2; issued Sept. 3, 2002) (Ex. 1005); and
4. "Hesse" (U.S. Patent No. 5,950,010; issued Sept. 7, 1999) (Ex. 1006).

F. Grounds Asserted

Petitioner challenges the patentability of claims 1–21 of the '293 patent on the following grounds:

Reference(s)	Basis	Claim(s)
Collins and On-Demand Handbook	35 U.S.C. § 103(a)	1–21
Gupta and Hesse	35 U.S.C. § 103(a)	1, 2, 6, 7, 12, 13, 15–18, 20, and 21

Petitioner relies also on expert testimony from Leonard Laub (Ex. 1002, "Laub Decl.").

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