

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

UBISOFT, INC. AND SQUARE ENIX, INC.,  
Petitioners

v.

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

---

Case No. IPR2017-01290  
U.S. Patent No. 6,510,466

---

**PETITIONER'S REQUEST FOR REHEARING  
UNDER 37 C.F.R. § 42.71(D)**

## TABLE OF CONTENTS

I. INTRODUCTION.....	1
II. APPLICABLE STANDARDS .....	1
III. ARGUMENT .....	2
A. The Decision Misapprehends and/or Overlooks that the Function of “Installing” Does Not Exclude “Configuring.” .....	4
B. The Decision Misapprehended and/or Overlooked that the Configuration Operations of Figure 5 Are “Clearly Linked” To The Claimed Function Of Installing. ....	6
C. The Decision Misapprehended and/or Overlooked that Steps 112-116 of Figure 8 Are Not Clearly Linked to the Function of Installing. ....	10
D. The Decision Overlooked and/or Misapprehended that Sonderegger in view of Hughes Discloses “Installing A Plurality of Application Programs.” .....	12
IV. CONCLUSION .....	15

## I. INTRODUCTION

In response to the Decision Denying Institution of *Inter Partes* Review entered November 1, 2017, (Paper 12, hereinafter “Decision”) and pursuant to 37 C.F.R. § 42.71(d), Ubisoft, Inc. and Square Enix, Inc. (“Petitioner”) hereby respectfully request the Patent Trial and Appeal Board (“Board”) reconsider its decision denying institution for *inter partes* review of claims 1, 2, 7, 8, 15–17, 22, 23, 30, 35, and 36 of U.S. Patent No. 6,510,466 (EX1001, “the ‘466 patent”).

The grounds of invalidity raised by Petitioner in the Petition (Paper 3, hereinafter “Petition”) are based on the following references:

1. “Sonderegger” (US 5,692,129; issued Nov. 25, 1997) (Ex. 1002);
2. “Hughes” (Jeffrey F. Hughes and Blair W. Thomas, NOVELL’S GUIDE TO NETWARE 4.1 NETWORKS (1996)) (Ex. 1003);
3. “Franklin” (US 6,105,069; issued Aug. 15, 2000) (Ex. 1004); and
4. “NAL White Paper” (Novell Application Launcher 2.0: Fast, Efficient Software Distribution and Application Deployment) (Ex. 1005).

Decision at 6. This request is timely under 37 C.F.R. §42.71(d)(2) as it was filed within 30 days of the Board’s decision not to institute a trial on the ‘466 patent.

## II. APPLICABLE STANDARDS

“A party dissatisfied with a decision may file a request for rehearing, without prior authorization from the Board.” 37 C.F.R. §42.71(d). “The request must specifically identify all matters the party believes the Board misapprehended

or overlooked, and the place where each matter was previously addressed in a motion, an opposition, or a reply.” *Id.* The Board reviews a decision for an abuse of discretion. 37 C.F.R. §42.71(c).

The Board has granted requests for rehearing and instituted a previously denied *inter partes* review proceeding after determining that it had misapprehended and/or overlooked evidence that was relied upon by the Petitioners. Exemplary opinions reflecting such action may be found in *Merial Limited v. Virbac* IPR2014-01279, Paper 18 at 7 (Apr. 15, 2015) (granting rehearing and ordering institution, finding: “Petitioner emphasizes the ‘optional’ nature of the cosolvent, a matter we overlooked in entering our order declining to institute an *inter partes* review trial.”) and *Daicel Corp. v. Celanese International Corp.* IPR2015-00171, Paper 13 at 3-4 (Jun. 26, 2015) (granting rehearing and ordering institution, determining that it had “misapprehended the significance of this argument in the Petition, and overlooked the fact that Mr. Cooper’s opinion is also based on his own calculations and data in two published articles”).

### III. ARGUMENT

Petitioner requests reconsideration of the Board’s Decision not to institute *inter partes* review on all grounds raised in the Petition because the Decision misapprehends and/or overlooks the disclosure of the ‘466 patent and the Sonderegger prior art with respect to the limitations relating to “installing a

plurality of applications programs on a server” found in independent method claim 1 and independent means-plus-function claims 15 and 16.

Specifically, the Decision declined to institute on means-plus-function claims 15 and 16 because the Board disagreed with Petitioner’s proposed structure: Figure 5 of the ‘466 patent. The Board found “that Figure 5 of the ‘466 patent relates to configuration and not installation. . . . We, therefore, do not adopt Petitioner’s proposed corresponding structure because it is not linked or associated with the recited function.” Decision at 10 (internal citations omitted). Instead, the Board found that certain steps of Figure 8 were clearly linked to the function, and then determined that “Petitioner has not shown the references describe the corresponding structure” of Figure 8. Decision at 11, 14-15.

As to method claim 1, the Board construed “application program” – as found in the limitation “installing a plurality of application programs at a server” – as “code associated with underlying application program functions.” Decision at 11, 15. The Board then determined that the “application objects” disclosed in the Sonderegger reference “do not comport with that construction because they contain only information about application programs . . . .” Decision at 15.

Petitioner requests rehearing of these determinations, and contends that the Board misapprehended and/or overlooked that 1) the ‘466 patent’s disclosure of “installing” does not exclude “configuring”; 2) Petitioner’s proposed structure –

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.