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. IPR2017-01291
U.S. Patent No. 6,728,766

PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE

PURSUANT TO 37 C.F.R. § 42.120

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I. INTRODUCTION

Patent Owner argues only that *Olsen* does not teach the following limitation of claim 1: "receiving at the license management server a request for a license availability of a selected one of the plurality of application programs from a user at a client." Specifically, Patent Owner argues: 1) *Olsen's* request is received from and associated with a user at a client; and 2) requesting a "license" is not the same as requesting "license availability." As set forth in the Petition and reiterated herein, Patent Owner's arguments are incorrect and *Olsen* anticipates claims 1 and 3 of the '766 Patent.

A. *Olsen* expressly teaches receiving a request for a license availability "from a user at a client."

Patent Owner argues that "nothing in *Olsen* discloses or suggests the license management server receiving the request for a license availability ***from the user*** at a client." Patent Owner Response ("POR") at 9 (emphasis in original). The nature of Patent Owner's argument is difficult to understand, but appears to boil down to two suggestions, both of which are wrong.

First, Patent Owner suggests that the license availability request in *Olsen* is not "from the user," but is instead from a "client." POR at 6, 7, 9. The crux of Patent Owner's argument in this regard is that *Olsen* may disclose a client making the request in some automated fashion, not involving a user. However, *Olsen*

expressly discloses the opposite, i.e., that the request is made by a user using a client:

> *"After the license certificates have been added to license certificate database 112 and stored in buffer format, client 106 may request licenses for access to applications. Referring now to FIGS. 8A-B,* ***when the user desires an application, the user suitably chooses a license by selecting a name from a list or an icon, and then provides suitable information corresponding to any required fields (step 802)****. …"*

EX1002, *Olsen* at 10:43-11:9 (expressly quoted in full in the Petition (at 13-14)); *see also id.* at 2:38-47 (the request includes the user's name in a disclosed embodiment) (reproduced in Petition at 14), Fig. 8A (reproduced in Petition at 15). After the user selects a desired license for a particular application at the client, the client uses an API to prepare a request for license availability of the selected application for the user and transmits the request to the LSP 110. *Id.* at 10:43-11:9. Thus, *Olsen* explicitly teaches exactly what the claims require and is consistent with the '766 Patent disclosure – that the license availability request is made from a user at a client. *See* EX1001 ('766 Patent) at 5:43-56 ("Requests are received at the license management server for a license availability of a selected one of the plurality of application programs ***from a user at a client***. … The request may be received from an application launcher program . . . .") (emphasis added); *see also*

id. at 12:63-13:19 ("The application launcher is configured to read a set of license policies, for example, ***by using the preference Application Program Interface (API) for the user that is requesting initiation of an instance of the application***."); *see also* EX1005, *'766 File History* at 119-120 (emphasizing this passage from the specification). Olsen discloses the exact same process as disclosed in the '766 patent, but in greater detail.[1]

Second, Patent Owner suggests that the license availability request in *Olsen* is not "associated with" a user, but is instead "associated with" a client device. *See* POR at 8 (hypothesizing about the "possibility that *Olsen* associates its license availability requests with the client device"). Much of Patent Owner's argument is enshrined in inherency, an argument that Petitioners have never advanced. Petitioners contend that *Olsen* expressly discloses a license management server that receives a request for license availability that is "from a user at a client device," as required by the claim and set forth above and in the Petition. Accordingly, Patent Owner's arguments responsive to a fabricated inherency position are wholly inapplicable.

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[1] In contrast to the prior art considered during original prosecution, Olsen teaches that the "requester" is the user logged into the computer, not the computer itself. *Compare, e.g., Olsen* disclosures above *with* EX1005, *'766 File History* at p.162 ("the discussed 'requester' [in the prior art] is clearly the computer, not a user logged onto the computer").

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