

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

PETITION FOR *INTER PARTES* REVIEW

OF U.S. PATENT NO. 6,728,766

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I. INTRODUCTION

Ubisoft, Inc. and Square Enix, Inc. (“Petitioners”) requests *Inter Partes* Review (“IPR”) of claims 1, 3, 7, 9, 13, and 15 (“the Challenged Claims”) of U.S. Patent No. 6,728,766 (“‘766 Patent”). EX1001.

II. REQUIREMENTS FOR *INTER PARTES* REVIEW UNDER 37 C.F.R. § 42.104

A. Grounds for Standing Under 37 C.F.R. §42.104(a)

Petitioners certify that the ‘766 Patent is available for IPR and that no Petitioner is barred or estopped from requesting this IPR. Specifically, each Petitioner states it: (1) is not the owner of the ‘766 Patent; (2) has not filed a civil action challenging the validity of any claim of the ‘766 Patent; (3) this Petition is timely filed less than one year after it was served with a complaint alleging infringement of the ‘766 Patent; and (4) this Petition is filed more than nine months after the ‘766 Patent issued.

B. Identification of Challenge Under 37 C.F.R. §42.104(b) and Relief Requested

In view of the prior art, evidence, and discussion of claim limitations below, the Challenged Claims of the ‘766 Patent are unpatentable and should be cancelled. 37 C.F.R. §42.104(b)(1). The review of the Challenged Claims of the ‘766 Patent is governed by pre-AIA 35 U.S.C. §§102 and 103.

Proposed Statutory Rejections for the '646 Patent
<p><u>Claims:</u> 1, 3, 7, 9, 13, and 15 are Anticipated under §§102(a) and/or (e) by US 5,758,069 (“Olsen”) [EX1002]</p>

C. Level of Ordinary Skill in the Art

Petitioners contend that a person of ordinary skill in the field of computer networking at the time of the alleged invention, December 14, 1998, (“POSITA”) would have had at least an undergraduate degree in computer science, computer engineering, or a related field or an equivalent number of years of working experience and at least one to two years of experience in networking environments, including at least some experience with management of application programs in a network environment.

D. Claim Construction

A claim subject to IPR receives the “broadest reasonable construction in light of the specification of the patent in which it appears.” 37 C.F.R. §42.100(b). Unless otherwise noted below, Petitioners propose, for purposes of this proceeding only, that the claim terms of the ‘766 Patent are presumed to take on their ordinary and customary meaning that the term would have to one of ordinary skill in the art. The claim construction analysis is not, and should not be viewed as a concession by Petitioners as to the proper scope of any claim term in litigation. These assumptions are not a waiver of any argument in any litigation that claim terms in

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