UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BITDEFENDER INC.,

Petitioner

v.

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

Patent Owners

IPR2017-1315

PATENT 6,510,466

PATENT OWNER RESPONSE TO PETITION

PURSUANT TO 37 C.F.R. § 42.120

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I.   INTRODUCTION

Pursuant to 35 U.S.C. § 313 and 37 C.F.R. § 42.120, Uniloc Luxembourg S.A. ("Patent Owner") submits this Response to the Petition for Inter Partes Review ("the Petition") of U.S. Patent No. 6,728,766 ("the '466 Patent") filed by BitDefender Inc. ("Petitioner").

In the Institution Decision (IPR2017-01315, Paper No. 7), trial was instituted for Claims 1, 2, and 7-9 of the '466 Patent. Among other fatal deficiencies, the Petition does not establish obviousness for receiving login requests from users at the server where a plurality of application programs are installed. Rather than identify any disclosure within a printed publication, as required by law, Petitioner instead uses the patent as a blueprint to fundamentally rewrite *Kasso's* system architecture. More specifically, Petitioner proposes, without reasoning or support, that a person of ordinary skill in the art would have been motivated to modify *Kasso* by incorporating the dedicated functionality of one server (the NIS server 230), instead, into an entirely different server (the HTTP server 208).

Neither the Petition nor its attached declaration bothers to provide explanation, reasoning, or support for the overall system architecture of its proposed rewrite of *Kasso*. On the contrary, Petitioner and its declarant, Mr. Day, cannot even envision or articulate the overall system architecture of its proposed modification, much less articulate an explanation of why a person of ordinary skill in the art would

modify the prior art reference to create the claimed invention. For this reason alone, all challenges to the '466 Patent should be dismissed.

The Petitioner's so-called "reasons" for the proposed rewrite of *Kasso* is illusory. While in each instance the Petition purports to rely on expert testimony for support, a review of the declaration reveals that it merely parrots verbatim the conclusory attorney arguments of the Petition. Petitioner cannot merely speculate through its declarant, outside the four corners of the reference, to carry its burden. The Federal Circuit has instructed that determinations of obviousness should be based on evidence rather than on mere speculation or conjecture. And therefore, in addition to the above, the continuing and repeated failings of the petition to carry its burden provide additional reasons to dismiss all challenges to the '466 Patent.

In view of the reasons presented herein, Patent Owner respectfully submits that the Petition fails to meet its burden to prove unpatentability. Consequently, all challenges against the '466 Patent should be dismissed.

II.   THE '466 PATENT

A.   Effective Filing Date

The '466 Patent is titled "Methods, Systems and Computer Program Products for Distribution of Application Programs to a Target Station on a Network." EX1001 at [54]. The '466 Patent issued from U.S. Patent Application No. 09/211,528, filed December 14, 1998. The '466 Patent issued on January 21, 2003, after five years of

thorough prosecution, and was originally assigned to the International Business Machines Corporation ("IBM"). EX1001 at [45], [73].

B.   Overview of the '466 Patent

The '466 Patent relates to centrally managing the provision of application programs within a heterogeneous computer network environment. EX1001, 1:21-23; 3:24-36; 5:37-6:9. An application program (or simply "application") is software written to perform a particular function for a user and is distinguishable from, for example, the operating system of a particular device, system-level software designed to operate the network, etc.

As of 1998, designers of heterogeneous computer networks for large enterprises were confronted with various problems including, for example, users who login at different times from different client devices on the network—i.e., a *roaming* user. Around that same timeframe, computer network designers were also confronted with the problems of efficiently distributing and updating applications throughout the enterprise network, while maintaining consistency among roaming users as to both application updates and the application of preferences.

The '466 teaches innovative solutions to those problems, among others. As disclosed in the '466 Patent, for example, the IBM inventors had reduced to practice various embodiments that enable a roaming user to access the user's authorized applications from any client on the network, while consistently providing the user's

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