

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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UBISOFT ENTERTAINMENT S.A. and SQUARE ENIX,  
Petitioner

v.

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

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Case IPR2017-01827  
Patent 7,069,293 B2

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Before SALLY C. MEDLEY, BARBARA A. BENOIT, and  
JESSICA C. KAISER, *Administrative Patent Judges*.

KAISER, *Administrative Patent Judge*.

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

Ubisoft Entertainment S.A. and Square Enix (collectively, “Petitioner”) filed a Petition pursuant to 35 U.S.C. §§ 311–19 to institute an *inter partes* review of claims 1, 12, and 17 of U.S. Patent No. 7,069,293 B2, issued on June 27, 2006 (Ex. 1001, “the ’293 patent”). Paper 3 (“Pet.”). Uniloc USA, Inc. and Uniloc Luxembourg S.A.<sup>1</sup> (collectively, “Patent Owner”) filed a preliminary response. Paper 7 (“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.

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<sup>1</sup> The Preliminary Response identifies only Uniloc Luxembourg S.A. as the patent owner (Prelim. Resp. 1), but its Mandatory Notice identifies Uniloc Luxembourg S.A. as Patent Owner and Uniloc USA Inc. as the exclusive licensee in this case. Paper 4, 1.

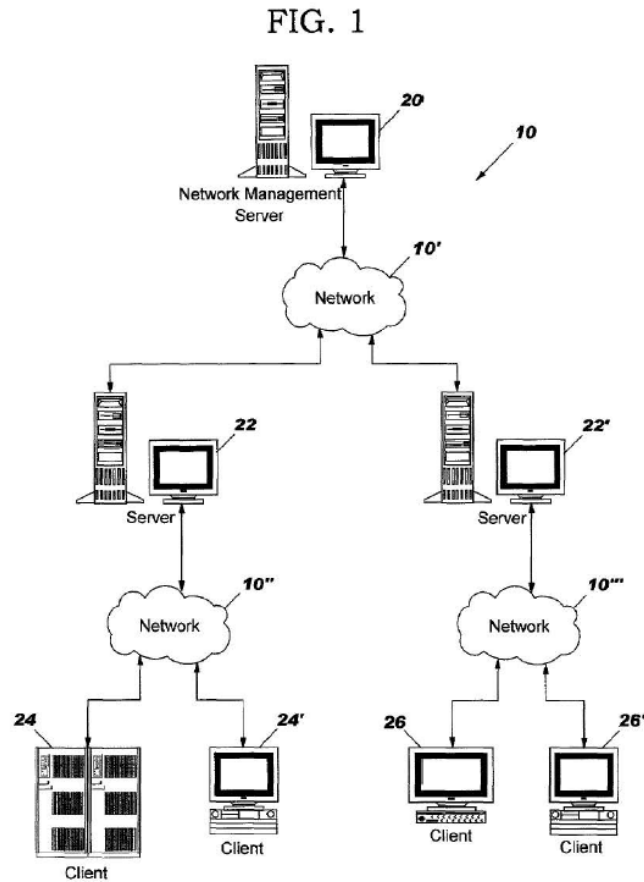


Figure 1 illustrates a computer network according to an embodiment of the invention. *Id.* at 6:60–63. In particular, network management server 20 is connected to on-demand servers 22 and 22' which are in turn connected to client stations 24 and 24' and 26 and 26' respectively. *Id.* at 6:63–7:9. The '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. 50–51. Patent Owner also identifies lawsuits pending in the Eastern District of Texas as well as the Northern District and Central District of California. Paper 4, 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. 2–6. Patent Owner disputes several of Petitioner's proposed

constructions. Prelim. Resp. 6–9. For purposes of this decision, we need not construe any terms, except as discussed below in the context of Petitioner’s asserted ground. *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”); *see also Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) (citing *Vivid Techs.* in the context of an *inter partes* review).

*E. Asserted Ground*

Petitioner relies on The TME Deployment Cookbook (“TME Cookbook”) dated April 1997 as anticipating claims 1, 12, and 17 of the ’293 patent under 35 U.S.C. § 102(b). Petitioner further relies on testimony from Mark C. Lang, an attorney with Erise IP, P.A., as establishing that TME Cookbook qualifies as a printed publication. Pet. 10–11 (citing Ex. 1004). Patent Owner does not challenge the printed publication status of TME Cookbook at this stage of the proceeding. *See* Prelim. Resp. For purposes of this decision, we assume without deciding that Petitioner has sufficiently shown TME Cookbook qualifies as a printed publication under 35 U.S.C. § 102(b).

Petitioner does not provide any expert testimony in support of its asserted ground.

## II. ANALYSIS

Petitioner contends that claims 1, 12, and 17 are anticipated by TME Cookbook. Pet. 10–50. For the reasons that follow, we are persuaded,

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