EXHIBIT H

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS INC.,
Petitioner

v.

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

IPR2017-00184
PATENT 7,069,293

PATENT OWNER PRELIMINARY RESPONSE TO PETITION PURSUANT TO 37 C.F.R. § 42.107(a)

the Petition. Petitioner "must specify where each element of the claim is found in the prior art patents or printed publications relied upon." 37 C.F.R. § 42.104(b)(4). The Board should reject any non-redundant, non-cumulative grounds that remain (if any) because Petitioner fails to meet this burden.[6]

A. Claim Construction

Before wading into claim construction issues introduced in the Petition, it is worth noting that the parties' present disputes make it unnecessary to construe the terms Petitioner proposes. *See Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999) ("[O]nly those terms need be construed that are in controversy, and only to the extent necessary to resolve the controversy."). Even if the Board were to adopt all of Petitioner's proposed constructions, Petitioner has failed to establish a *prima facie* case of obviousness for even one challenged claim. Nevertheless, it is worth pointing out certain flaws in the Petition with respect to claim construction that are so egregious they each provide an independent basis to deny the Petition in its entirety.[7]

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[6] While certain deficiencies in the Petition are addressed herein, Patent Owner hereby expressly reserves the right to address other deficiencies of the Petition in a full Response (and with the support of its own expert) if an *inter partes* review is instituted.

[7] The standard for claim construction at the Patent Office is different from that used during a U.S. district court litigation for non-expired patents. *See In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364, 1369 (Fed. Cir. 2004). Uniloc expressly reserves the right to argue a different claim construction in litigation for any term of the '293, as appropriate in that proceeding. Further, Patent Owner does not burden

1. "registration operations"

Petitioner's proposed construction for "registration operations" should be rejected because it renders other claim language superfluous and introduces ambiguity. *See Apple Inc. v. ContentGuard Holdings, Inc.*, IPR2015-00353, Paper No. 9, Decision Denying Institution of *Inter Partes* Review (P.T.A.B. June 25, 2015) (declining to adopt proposed claim construction that would render other claim language superfluous) and *Biotronik, Inc. et al. v. My Health, Inc.*, IPR2015-00102, Paper No. 11, Decision Institution of *Inter Partes* Review (P.T.A.B. April 16, 2015) (declining to adopt proposed claim construction that "introduces ambiguity into the meaning of the term.").

Petitioner proposes to construe "registration operations" to mean "operations ***to make the application available for use locally***." However, Claim 1 further recites "distributing the file packet to the target on-demand server ***to make the application program available for use by a user at a client***." Petitioner's proposed construction renders that "distributing" step superfluous as it is explicitly an operation (distributing) "to make the application program available for use by a user at a client." Clearly, the "registration operations" recited in Claim 1 must mean something other than what is effected in the "distributing" process step.

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the Board here with all possible issues introduced by Petitioner's proposed constructions; and Patent Owner's silence with respect to any construction proffered by Petitioner is not to be taken as a concession that the construction is correct.

Petitioner's faulty claim construction taints the entire Petition. By attempting to conflate "registration operations" with the "distributing" step, Petitioner reads the "registration operations" language out of the claim entirely. Not surprisingly, Petitioner carefully avoids even mentioning the word "registration" when presenting its argument.

Petitioner's proposed construction also improperly introduces ambiguity. For example, "locally" is a relative term and it is unclear from Petitioner's construction which claimed component (*e.g.*, client, target on-demand server, or network management server, etc.) is to be considered the "local" one. The Petition states "'registration operations' are done . . . ***at the client*** 'locally.'" Pet. at 15. Yet the Petition cites to an embodiment in the Specification which clearly states ". . . the data required to properly install and ***register the application program on the on-demand server*** …." *Id*. (citing Ex. 1003 4:18-22) (emphasis added). Moreover, the claim language itself recites "a segment configured to initiate registration operations for the application program ***at the target on-demand server***." It is unclear whether Petitioner has attempted to rewrite the claim such that the "registration operations" must be initiated at the "client" instead of the claimed "target on-demand server." As will be shown, Petitioner's injected ambiguity is compounded by the fact that Petitioner's patentability challenge relies solely on operations performed at what Petitioner alleges is the "client" computer.

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