DEFENDANTS' RESPONSIVE BRIEF ON CLAIM CONSTRUCTION

EXHIBIT 7

	Control No.	Patent Under Reexamination
Ex Parte Reexamination Interview Summary	90/010,831	5,490,216
	Examiner	Art Unit	
	MATTHEW HENEGHAN	3992	

All participants (USPTO personnel, patent owner, patent owner's representative):

(1) *MATTHEW HENEGHAN*   (3) *Minh Dinh Nguyen*

(2) *Alex Kosowski*   (4) *8 others, see Exhibit, p. 3.*

Date of Interview: *17 November 2010*

Type: a)☐ Telephonic   b)☐ Video Conference
        c)☒ Personal (copy given to: 1)☐ patent owner   2)☐ patent owner's representative)

Exhibit shown or demonstration conducted: d)☒ Yes   e)☐ No.
   If Yes, brief description: *Powerpoint Presentation*

Agreement with respect to the claims f)☐ was reached. g)☒ was not reached. h)☐ N/A.
Any other agreement(s) are set forth below under "Description of the general nature of what was agreed to..."

Claim(s) discussed: *1-20*.

Identification of prior art discussed: *Hellman, Grundy*.

Description of the general nature of what was agreed to if an agreement was reached, or any other comments:
The Patent Owner argued that some limitations of the claims were not met by the cited art and that obviousness could be overcome in view of secondary considerations. No agreement was reached. See attachment.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims patentable, if available, must be attached. Also, where no copy of the amendments that would render the claims patentable is available, a summary thereof must be attached.)

A FORMAL WRITTEN RESPONSE TO THE LAST OFFICE ACTION MUST INCLUDE PATENT OWNER'S STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. (See MPEP § 2281). IF A RESPONSE TO THE LAST OFFICE ACTION HAS ALREADY BEEN FILED, THEN PATENT OWNER IS GIVEN **ONE MONTH** FROM THIS INTERVIEW DATE TO PROVIDE THE MANDATORY STATEMENT OF THE SUBSTANCE OF THE INTERVIEW (37 CFR 1.560(b)). THE REQUIREMENT FOR PATENT OWNER'S STATEMENT CAN NOT BE WAIVED. **EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.550(c).**

		/Matthew Heneghan/
		USPTO AU 3992

cc: Requester (if third party requester)

UNI075036

Reasons Why Claims Should be Confirmed

- **Key claim elements not taught or suggested by the alleged SNQ:**
    - **Generating a *Licensee Unique ID* based on information unique to the user**
- Grundy is improperly used for the purpose of generating a Unique ID in original prosecution and therefore cannot be used in a SNQ during reexamination

Key Claim Terms – Intrinsic Evidence
"Licensee Unique ID/Security Key/Registration Key/Enabling Key"

- "It is the algorithm embedded within the code portion (and which is duplicated at the remote location) which provides a registration number which can be 'unique' if the information provided by the intending licensee upon which the algorithm relies when executed upon the platform is itself 'unique.'" ('216 patent, 3:11-16 and 6:16-21)

- The code portion includes an algorithm adapted to generate a registration number which is unique to an intending licensee of the digital data based on information supplied by the licensee which characterizes the licensee. ('216 patent, 2:65 – 3:2).

- It is the algorithm embedded within the code portion (and which is duplicated at the remote location) which provides a registration number which can be "unique" if the information provided by the intending licensee upon which the algorithm relies when executed upon the platform is itself "unique".
('216 patent, 6:17-22 and 3:11-17).

- This information, unique to the user, is passed through a registration number algorithm 14 (represented symbolically in FIG. 1) which generates a registration number or security key from the information unique to the user together with the serial number previously generated. ('216 patent, 7:14-19).

UNI075062

Hellman Does Not Disclose a *Licensee Unique ID* (as testified at trial by Professor Hellman)

"The Hellman patent, however, does not use a product key or any other "non-platform-related" user information to create a licensee unique ID. ... Hellman (the person) *admitted* – after repeatedly being impeached with his deposition testimony – that his patent failed to teach this requirement of the claims."
(Yellow Brief – Uniloc USA v. Microsoft, Case No. 2010-1035-1055 (Fed. Cir.), p. 57)

[Attorney] Question: If you wanted to indicate that information associated with the user, unique information was input into the cryptographic function, you certainly had the ability to disclose that in the figures, if you so chose.
[Hellman] Answer: Correct.
[Attorney] Question: And you didn't?
[Hellman] Answer: Correct.
[Attorney] Question: And you also had the ability to describe in the patent, if you so chose?
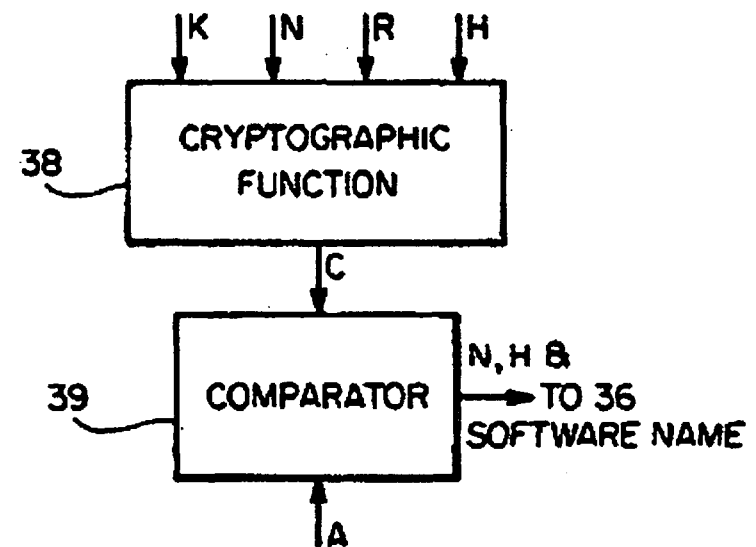[Hellman] Answer: In the specification? Yes.
[Attorney] Question: And you didn't?
[Hellman] Answer: Correct
(March 31, 2009 Trial Transcript: p.61, ll. 17 - p 62, ll. 4, Uniloc USA, Inc. et al. v. Microsoft Corp., C.A. No. 03-440 (D.R.I.))

Hellman Does Not Disclose a *Licensee* Unique ID

•K is a base unit identifying key stored in permanent memory, inaccessible by the user

•N is the number of software uses being requested

•R is a random number

•H is a value that identifies the name of the software package being requested

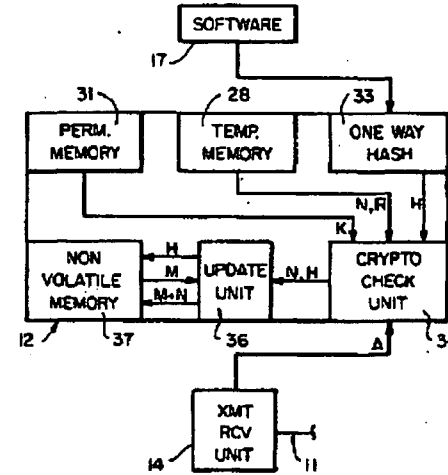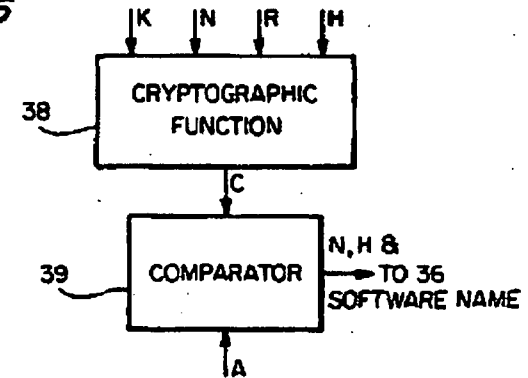•*None of the above are associated with the licensee (as admitted by Hellman at trial)*

K   N   R   H

CRYPTOGRAPHIC
FUNCTION

38

C

39

COMPARATOR

N, H &
TO 36
SOFTWARE NAME

A

FIG_7

UNI075070

Sterne Kessler
Goldstein Fox
ATTORNEYS AT LAW

K, N, R, and H are used to generate C. However C is not disclosed to be a unique ID associated with a user.
Therefore C is not a "**licensee unique** ID" as recited in claims 1, 19 and 20. Nor is C "a security key [generated] from information input to said software which **uniquely identifies** an intended registered **user**" as recited in claim 12, nor is C "a registration key which is a function of information **unique** to an intending **user** of the software" as recited in claim 17.

FIG_6

FIG_7

UNI075071