

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

**UNILOC USA, INC. and
UNILOC SINGAPORE PRIVATE LIMITED,**

Plaintiffs,

v.

Civ. Action No.: 6:10-cv-00472-LED

(1) NATIONAL INSTRUMENTS CORP.;
(2) PERVASIVE SOFTWARE, INC.;
(3) ADOBE SYSTEMS INC.;
(4) FILEMAKER, INC.;
(5) SAFENET, INC.;
(6) CA, INC.;
(7) PINNACLE SYSTEMS, INC.;
(8) SONIC SOLUTIONS;
(9) ONYX GRAPHICS, INC.;
(10) SYMANTEC CORP.;
(11) ALADDIN KNOWLEDGE SYSTEMS,
INC. and
(12) ALADDIN KNOWLEDGE SYSTEMS
LTD.

JURY TRIAL DEMANDED

Defendants.

**PLAINTIFFS' REPLY TO COUNTERCLAIMS OF
DEFENDANT SAFENET, INC.**

Plaintiffs, Uniloc USA, Inc. and Uniloc Singapore Private Limited (together "Uniloc" or "Plaintiffs"), reply to the counterclaims of defendant, SafeNet, Inc. ("SafeNet"), as follows:

COUNTERCLAIMS

PARTIES

43. Admitted.

44. Admitted.

45. Admitted.

JURISDICTION AND VENUE

46. Admitted.

47. Admitted.

48. Admitted.

FIRST COUNTERCLAIM

(Declaratory Judgment of Noninfringement)

49. Uniloc incorporates its responses to paragraphs 43-48 above as if fully set forth herein.

50. Denied.

51. Admitted.

52. Uniloc admits that SafeNet requests such a declaration but denies that SafeNet is entitled to such relief.

SECOND COUNTERCLAIM

(Declaratory Judgment of Invalidity)

53. Uniloc incorporates its responses to paragraphs 43-48 above as if fully set forth herein.

54. Denied.

55. Admitted.

56. Uniloc admits that SafeNet requests such a declaration but denies that SafeNet is entitled to such relief.

THIRD COUNTERCLAIM

(Declaratory Judgment of Unenforceability)

57. Uniloc incorporates its responses to paragraphs 43-48 above as if fully set forth herein.

58. Uniloc admits that the '216 patent issued on February 6, 1996. Uniloc denies the remaining allegations of paragraph 58.

59. In response to the general allegations set forth in paragraph 59 of SafeNet's counterclaims, Uniloc denies that they, including through their predecessors-in-interest in the '216 patent, attorneys and/or agents and/or others owing a duty of candor to the USPTO, committed acts constituting inequitable conduct during the prosecution of the '216 patent application; denies that the '216 patent is unenforceable; denies that it and/or any of its attorneys, agents or representatives failed to make the USPTO aware of highly material information known to Mr. Richardson, the sole inventor, prior to the issuance of the '216 patent; and denies that highly material misrepresentations were made to the USPTO by or on behalf of Mr. Richardson, prior to the issuance of the '216 patent.

In response to the individually lettered sub-paragraphs of paragraph 59, Uniloc replies as follows:

A. Admitted.

B. Admitted.

C. Denied.

D. Paragraph 59(D) refers to an unidentified letter purportedly from a Mr. Grundy to Mr. Richardson and an unidentified press release. To the extent that any such unidentified letter or press release exists, each document speaks for itself and no response is necessary. To the extent that paragraph 59(D) includes any additional factual allegations, Uniloc denies same.

E. Uniloc is without sufficient information and knowledge to form a belief as to the allegations in paragraph 59(E) and, therefore, denies same.

F. Uniloc is without sufficient information and knowledge to form a belief as to the allegations in paragraph 59(F) and, therefore, denies same.

G. Uniloc denies that Mr. Richardson breached his duty of candor and good faith to the USPTO. Uniloc is without sufficient information and knowledge to form a belief as to the remaining allegations in paragraph 59(G) and, therefore, denies same

H. Denied.

I. Denied.

J. Denied.

K. Uniloc admits that Mr. Richardson is the named inventor of Australian Patent No. 678,985 (“the ‘985 Australian patent), but denies that it is “Mr. Richardson’s” patent. Uniloc admits that the ‘985 Australian patent is a foreign counterpart to the ‘216 patent. Uniloc admits that the file history of the ‘985 Australian patent contains a November 20, 1994, letter to the Examination Office of the Australian Patent Registry from solicitor Mark J. Coorey. As Paragraph 59(K) refers to the file history of the ‘985 Australian patent, and specifically to a November 20, 1994, letter from solicitor Coorey contained therein, the documents speak for themselves and no response is necessary. To the extent that paragraph 59(K) requires Uniloc to draw legal conclusions, no response is required. To the extent that paragraph 59(K) includes any additional factual allegations, Uniloc denies same.

L. Uniloc is without sufficient information and knowledge to form a belief as to the allegations in paragraph 59(L) and, therefore, denies same.

M. Uniloc admits that Mr. Richardson is the named inventor of the ‘985

Australian patent, but denies that it is “Mr. Richardson’s” patent. Uniloc admits that the file history of the ‘985 Australian patent contains a December 20, 1994, letter to the Examination Office of the Australian Patent Registry from solicitor Mark J. Coorey. As Paragraph 59(M) refers to the file history of the ‘985 Australian patent, and specifically to a December 20, 1994, letter from solicitor Coorey contained therein, the documents speak for themselves and no response is necessary. To the extent that paragraph 59(M) requires Uniloc to draw legal conclusions, no response is required. To the extent that paragraph 59(M) includes any additional factual allegations, Uniloc denies same.

N. Uniloc is without sufficient information and knowledge to form a belief as to the allegations in paragraph 59(N) and, therefore, denies same.

O. Uniloc admits that the ‘985 Australian patent is a foreign counterpart to the ‘216 patent. Uniloc is without sufficient information and knowledge to form a belief as to the remaining allegations in paragraph 59(O) and, therefore, denies same.

P. Uniloc is without sufficient information and knowledge to form a belief as to the allegations in paragraph 59(P) and, therefore, denies same.

Q. Denied.

R. Denied.

S. Denied.

T. Denied.

U. To the extent that paragraph 59(U) requires Uniloc to draw legal conclusions, no response is required. Uniloc is without sufficient information and knowledge to form a belief as to the allegations in paragraph 59(U) and, therefore, denies same.

V. To the extent that paragraph 59(V) references documents, including the file history of the ‘216 patent, the documents speak for themselves. To the extent that paragraph 59(M)

requires Uniloc to draw legal conclusions, no response is required. To the extent that paragraph 59(V) contains any factual allegations, Uniloc denies same.

W. To the extent that paragraph 59(W) references documents, including the file history of the '216 patent, the documents speak for themselves. To the extent that paragraph 59(W) requires Uniloc to draw legal conclusions, no response is required. To the extent that paragraph 59(W) contains any factual allegations, Uniloc denies same.

X. Denied.

Y. To the extent that paragraph 59(Y) references documents, including the file history of the '216 patent, the documents speak for themselves. To the extent that paragraph 59(Y) requires Uniloc to draw legal conclusions, no response is required. To the extent that paragraph 59(Y) contains any factual allegations, Uniloc denies same.

Z. Denied.

AA. Denied.

BB. Denied.

CC. Denied.

DD. To the extent that paragraph 59(DD) references documents, including the file history of the '216 patent, the documents speak for themselves. To the extent that paragraph 59(DD) requires Uniloc to draw legal conclusions, no response is required. To the extent that paragraph 59(DD) contains any factual allegations, Uniloc denies same.

EE. Denied.

FF. Denied.

GG. Denied.

HH. Denied.

II. To the extent that paragraph 59(II) references documents, including the file history of the '216 patent, the documents speak for themselves. To the extent that paragraph 59(II) requires Uniloc to draw legal conclusions, no response is required. To the extent that paragraph 59(II) contains any factual allegations, Uniloc denies same.

JJ. Denied.

KK. Denied.

LL. Denied.

MM. Denied.

NN. To the extent that paragraph 59(NN) references documents, including the file history of the '216 patent, the documents speak for themselves. To the extent that paragraph 59(NN) requires Uniloc to draw legal conclusions, no response is required. To the extent that paragraph 59(NN) contains any factual allegations, Uniloc denies same.

OO. Denied.

PP. Denied.

QQ. Denied.

RR. Denied.

SS. To the extent that paragraph 59(SS) references documents, including the file history of the '216 patent, the documents speak for themselves. To the extent that paragraph 59(SS) requires Uniloc to draw legal conclusions, no response is required. To the extent that paragraph 59(SS) contains any factual allegations, Uniloc denies same.

TT. Denied.

UU. Denied.

VV. Denied.

WW. Denied.

60. Admitted.

61. Uniloc admits that SafeNet requests such a declaration but denies that SafeNet is entitled to such relief.

AFFIRMATIVE DEFENSES

62. SafeNet is barred from relief by the doctrines of waiver, estoppels, laches, unclean hands and/or other equitable defenses.

63. SafeNet's counterclaims fail to state a claim upon which relief can be granted.

64. Uniloc reserves the right to assert other affirmative defenses as it may discover or appreciate during this proceeding.

PRAYER FOR RELIEF

WHEREFORE, Uniloc requests that the Court:

- A. Enter judgment in favor of Uniloc on all counts of the counterclaims;
- B. Dismiss SafeNet's counterclaims with prejudice;
- C. Deny all relief requested in SafeNet's counterclaims and prayer for relief;
- D. Declare this case exceptional and award Uniloc its attorneys' fees, expenses and costs incurred in defending against SafeNet's counterclaims; and
- E. Award Uniloc such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial of all issues triable of right by jury.

Respectfully submitted,

**UNILOC USA, INC. and
UNILOC SINGAPORE PRIVATE LTD.**

Date: December 10, 2010

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed electronically in compliance with Local Rule CV-5 on December 10, 2010. As of this date, all counsel of record have consented to electronic service and are being served with a copy of this documents through the Court's CM/ECF system under Local Rule CV-5(a)(3)(A).

/s/ Dean G. Bostock