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### UNILOC USA v MICROSOFT

1. In our announcements dated 5 January 2011 and 7 January 2011 we reported that in an appeal to the U.S. Court of Appeals for the Federal Circuit (“Federal Circuit”), Uniloc USA was successful with its appeal resulting in a decision that held:
  - (a) Uniloc’s patent was valid;
  - (b) Microsoft had infringed the patent as alleged;
  - (c) there was no willful infringement of the patent; and
  - (d) there must be a re-trial on the question of damages.
2. In addition to the proceedings before the Federal Circuit, Microsoft sought to have Uniloc’s patent invalidated through re-examination proceedings before the United States Patent and Trademark Office (“USPTO”).
3. The USPTO has now completely rejected Microsoft’s challenge to Uniloc’s patent, thereby maintaining the validity of the patent. US coverage of the USPTO decision is attached.
4. The next major step in this case is the re-trial of Uniloc’s damages claim which has now been scheduled for hearing by a jury commencing on 9 January 2012.

A handwritten signature in black ink, appearing to read 'Diane Jones', enclosed within a hand-drawn oval.

**Diane Jones**  
**Chief Operating Officer**

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## USPTO Upholds Uniloc Security IP Amid Microsoft Row

By **Abigail Rubenstein**

Law360, New York (August 9, 2011) -- The U.S. Patent and Trademark Office announced Friday that it would uphold a Uniloc USA Inc. software security patent at the heart of an ongoing dispute with Microsoft Corp. in Rhode Island, finding all the challenged claims patentable.

The agency issued a notice of intent to issue a re-examination certificate for Uniloc-held U.S. Patent Number 5,490,216, titled "System for software registration," marking an end to the ex parte re-examination process Microsoft initiated after Uniloc accused it of violating the patent.

Uniloc and Microsoft are currently poised to begin a new trial on damages for Microsoft's alleged infringement of the patent, following a Federal Circuit ruling.

"This has a huge impact on the situation because the patent has now been, as some would say, 'gold-plated' by the re-examination process," Robert Greene Sterne of Sterne Kessler Goldstein & Fox PLLC, who represented Uniloc before the USPTO, told Law360 on Tuesday.

A Microsoft spokesman declined to comment on the matter.

The two have been sparring over the patent since 2003, when Uniloc filed a suit alleging Microsoft's product activation system — an anti-piracy registration system used to reduce unlicensed use of its software products — infringed the '216 patent.

A jury found in favor of Uniloc in April 2009, awarding it \$388 million in damages for willful infringement of the patent-in-suit. However, a Rhode Island federal judge vacated the award and granted Microsoft judgment as a matter of law of noninfringement, ruling that the jury failed to understand the complexities of the case when it issued its verdict.

In January, though, a three-judge panel in the Federal Circuit found that Microsoft had infringed the '216 patent and that the patent was valid.

The appeals court did not toss out all the district court's decisions, however, agreeing that the \$388 million award was tainted by legally inadequate methodology and granting a new trial on damages. It also upheld the district judge's finding that Microsoft had not willfully infringed the patent-in-suit.

Uniloc sought an en banc rehearing on those issues, but the Federal Circuit in May refused to take up the case again.

Uniloc is represented in the re-examination proceeding by Sterne Kessler Goldstein & Fox PLLC.

Microsoft is represented in the re-examination proceeding by Klarquist Sparkman LLP.

The Rhode Island case is Uniloc USA Inc. et al. v. Microsoft Corp. et al., case number 1:03-cv-00440, in the U.S. District Court for the District of Rhode Island.

--Additional reporting by Christopher Norton, Ian Thoms and Ryan Davis. Editing by Chris Giganti.

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