

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

UNILOC USA, INC. and	§	
UNILOC LUXEMBOURG, S.A.,	§	
	§	Civil Action No. 2:16-cv-858
Plaintiffs,	§	
	§	
v.	§	PATENT CASE
	§	
BIG FISH GAMES, INC.,	§	
	§	
Defendant.	§	JURY TRIAL DEMANDED
	§	

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs, Uniloc USA, Inc. and Uniloc Luxembourg, S.A. (together “Uniloc”), as and for their complaint against defendant, Big Fish Games, Inc. (“Big Fish”), allege as follows:

THE PARTIES

1. Uniloc USA, Inc. is a Texas corporation having a principal place of business at Legacy Town Center I, Suite 380, 7160 Dallas Parkway, Plano Texas 75024. Uniloc also maintains a place of business at 102 N. College, Suite 603, Tyler, Texas 75702.

2. Uniloc Luxembourg S.A. is a Luxembourg public limited liability company having a principal place of business at 15, Rue Edward Steichen, 4th Floor, L-2540, Luxembourg (R.C.S. Luxembourg B159161).

3. Uniloc Luxembourg owns a number of patents in the field of application management in a computer network.

4. Upon information and belief, Big Fish is a Washington corporation having a principal place of business in Seattle, Washington and offering its products, including those accused herein of infringement, to customers and/or potential customers located in Texas and in

the judicial Eastern District of Texas. Big Fish may be served with process through its registered agent in Texas: CT Corporation System, 505 Union Ave SE, Suite 120, Olympia, Washington 98501.

JURISDICTION AND VENUE

5. Uniloc brings this action for patent infringement under the patent laws of the United States, 35 U.S.C. § 271 *et seq.* This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338(a) and 1367.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(c) and 1400(b). Upon information and belief, Big Fish is deemed to reside in this judicial district, has committed acts of infringement in this judicial district, and/or has purposely transacted business involving the accused products in this judicial district, including sales to one or more customers in Texas.

7. Big Fish is subject to this Court's jurisdiction pursuant to due process and/or the Texas Long Arm Statute due at least to its substantial business in this State and judicial district, including: (A) at least part of its past infringing activities, (B) regularly doing or soliciting business in Texas and/or (C) engaging in persistent conduct and/or deriving substantial revenue from goods and services provided to customers in Texas.

COUNT I
(INFRINGEMENT OF U.S. PATENT NO. 6,324,578)

8. Uniloc incorporates paragraphs 1-7 above by reference.

9. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 6,324,578 ("the '578 Patent"), entitled METHODS, SYSTEMS AND COMPUTER PROGRAM PRODUCTS FOR MANAGEMENT OF CONFIGURABLE APPLICATION PROGRAMS ON

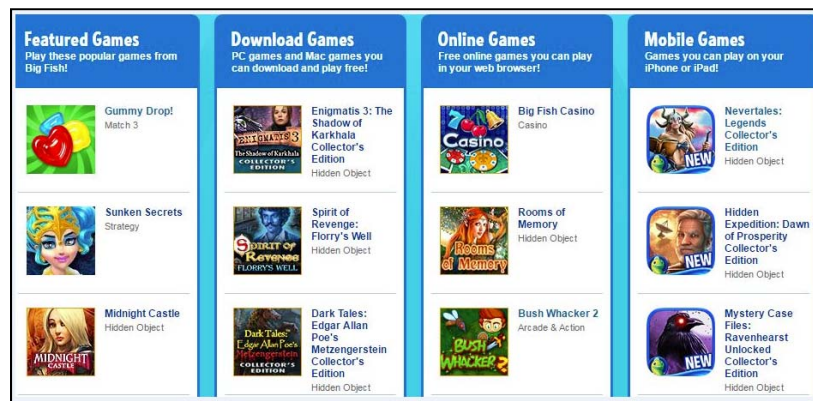
A NETWORK that issued on November 27, 2001. A true and correct copy of the '578 Patent is attached as Exhibit A hereto.

10. Uniloc USA is the exclusive licensee of the '578 Patent with ownership of all substantial rights therein, including the right to grant sublicenses, to exclude others, and to enforce, sue and recover past damages for the infringement thereof.

11. Upon information and belief, the following describes, at least in part, how the Big Fish software distribution and management system works:



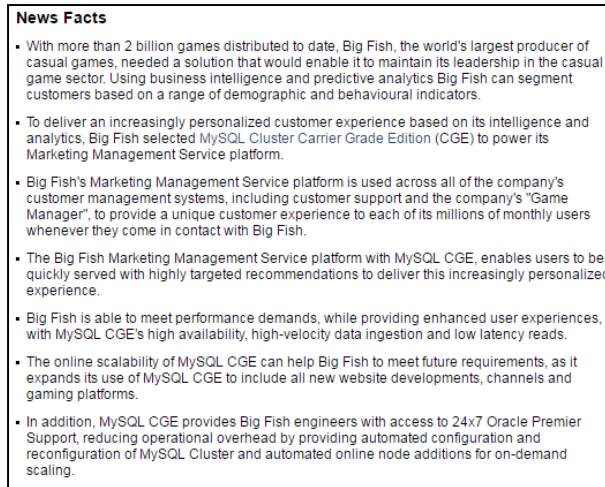
12. Upon information and belief, the following describes, at least in part, how the Big Fish software distribution and management system works:



13. Upon information and belief, the following describes, at least in part, how a Big Fish software distribution and management system sign in/create account works:



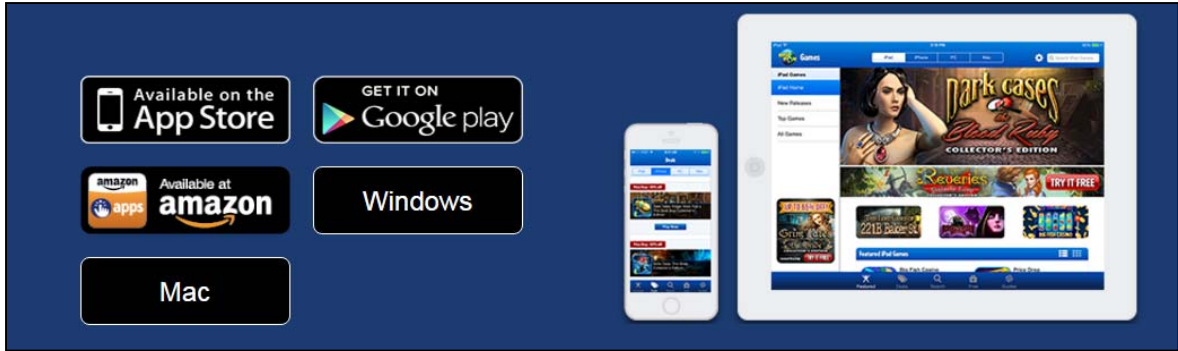
14. Upon information and belief, the following describes, at least in part, the Big Fish software distribution and management system:



15. Upon information and belief, the following describes, at least in part, the Big Fish software distribution and management system:



16. Upon information and belief, the following describes, at least in part, how the Big Fish software distribution and management system works:



17. Upon information and belief, the following describes, at least in part, network information relating to the Big Fish software distribution and management system:

Network information	
IP address	208.77.152.196
Reverse DNS (PTR record)	www.bigfishgames.com
DNS server (NS record)	ns2.bigfishgames.com (208.77.152.148) ns1.bigfishgames.com (208.77.154.136)
ASN number	16773
ASN name (ISP)	Big Fish Games, Inc.
IP-range/subnet	208.77.152.0/23 208.77.152.0 - 208.77.153.255
Network tools	Ping 208.77.152.196 Tracer 208.77.152.196

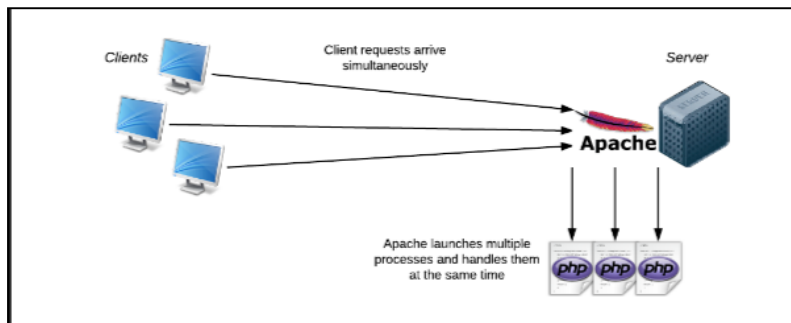
18. Upon information and belief, the following describes, at least in part, a Big Fish software distribution and management system server:

Assurance	Organisation validation
Organisation	Big Fish Games, Inc.
State	Washington
Organisational unit	Operations
Validity period	From Oct 8 2014 to Jul 28 2018 (45 months, 2 weeks, 6 days)
Server	Apache
Protocol version	TLSv1.2
Certificate check	ok
Serial number	0x4b1ab6482e4720e032518713c0b361cd
Version number	0x02

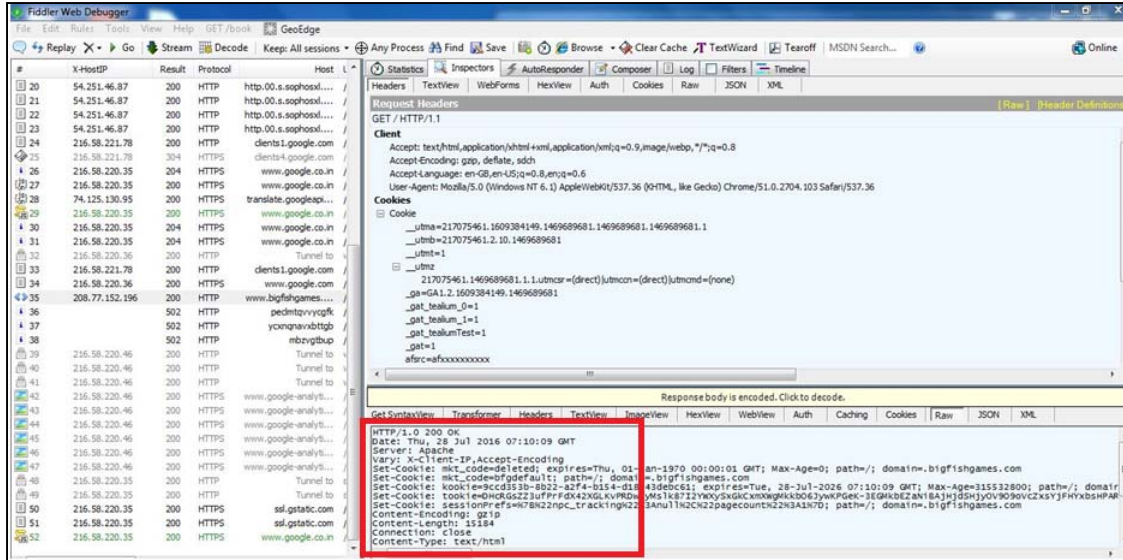
19. Upon information and belief, the following describes, at least in part, Big Fish software distribution and management system sever IP addresses:

Netblock owner	IP address	OS	Web server	Last seen <small>Refresh</small>
Big Fish Games, Inc. 333 Elliott Ave West suite 200 Seattle WA US 98119	208.77.152.196	F5 BIG-IP	Apache	26-Jul-2016
Big Fish Games, Inc. 333 Elliott Ave West suite 200 Seattle WA US 98119	208.77.152.196	unknown	Apache	12-Mar-2012
Big Fish Games, Inc. 333 Elliott Ave West suite 200 Seattle WA US 98119	208.77.152.196	Citrix Netscaler	Apache	28-Jun-2011
Big Fish Games, Inc. 333 Elliott Ave West suite 200 Seattle WA US 98119	208.77.152.196	unknown	Apache	24-Jun-2011
Big Fish Games, Inc. 333 Elliott Ave West suite 200 Seattle WA US 98119	208.77.152.196	Citrix Netscaler	Apache	6-May-2011
Big Fish Games, Inc. 333 Elliott Ave West suite 200 Seattle WA US 98119	208.77.152.196	unknown	Apache	5-May-2011
Big Fish Games, Inc. 333 Elliott Ave West suite 200 Seattle WA US 98119	208.77.152.196	Citrix Netscaler	Apache	28-Dec-2010
Big Fish Games, Inc. 333 Elliott Ave West suite 200 Seattle WA US 98119	208.77.152.196	unknown	Apache	27-Dec-2010
Big Fish Games, Inc. 333 Elliott Ave West suite 200 Seattle WA US 98119	208.77.152.196	Linux	Apache	22-Jul-2010
Big Fish Games, Inc. 333 Elliott Ave West suite 200 Seattle WA US 98119	208.77.152.196	unknown	Apache	3-Jul-2010

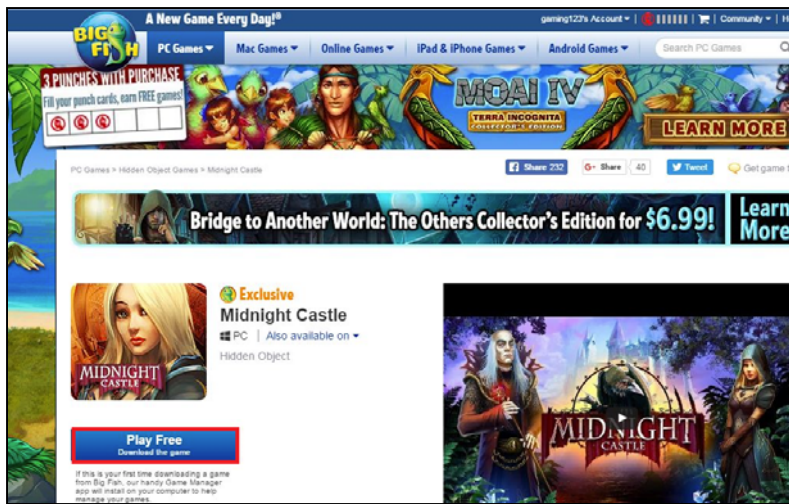
20. Upon information and belief, the following describes, at least in part, how the Big Fish software distribution and management system works:



21. Upon information and belief, the following describes, at least in part, how the Big Fish software distribution and management system works:



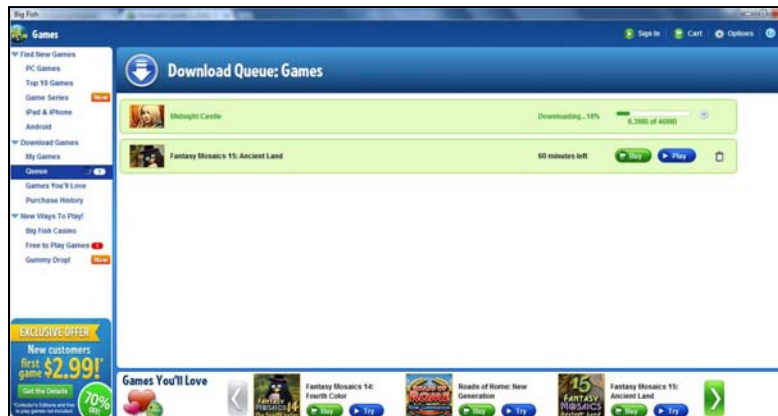
22. Upon information and belief, the following describes, at least in part, how the Big Fish software distribution and management system works:



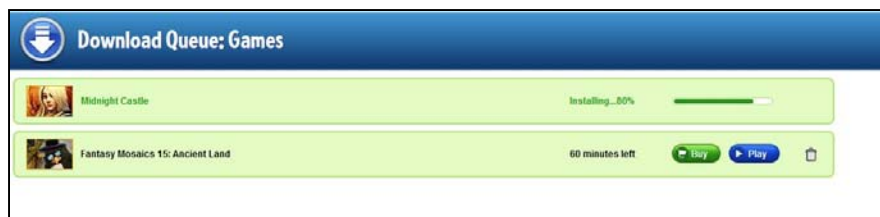
23. Upon information and belief, the following describes, at least in part, how the Big Fish software distribution and management system works:



24. Upon information and belief, the following describes, at least in part, how the Big Fish software distribution and management system game download works:



25. Upon information and belief, the following describes, at least in part, how the Big Fish software distribution and management system game download works:



26. Upon information and belief, the following describes, at least in part, how the Big Fish software distribution and management system works:

- This is the player profile and achievements tab (E); you can change your avatar, name, and view achievements here.
- The experience or XP bar (F) shows your current level, total experience gained, and how close to the next level you are.
- This is your total number of coins (G).
- This is your total number of diamonds (H).
- Select the plus button (I) to access the bank; this is where coins and diamonds may be purchased.
- The gear button (J) is the game settings; change the cursor, sound settings, view the credits, and switch between full screen and windowed mode here.
- Active quest givers are displayed here (K); select their portraits for additional information on each quest.
- This is the current pet you have set (L).
- This is your primary quest item (M); repairing this item by completing quests is the primary goal.
- Your Inventory is accessed here (N).
- Access the Laboratory here (O).
- View your friends and interact with them in the socials tab (P).
- Select the Back button to move back one screen as you navigate through Midnight Castle (P1).
- Access the archivist here (P2).
- View the world map here (P3).
- Enter the tournament lobby here (P4).

27. Upon information and belief, the following describes, at least in part, how the Big Fish software distribution and management system works:



28. Upon information and belief, the following describes, at least in part, how the Big Fish software distribution and management system works:

- Player Profile and Achievements can be found here (Q).
- The player avatar can be changed here (R).
- There are a variety of unique avatars to unlock through questing and by gaining achievements.
- You can edit your player name here (S).
- Your bank can be accessed here; purchase diamonds and coins here (T).
- Your friends ID code is displayed here (U); this code will help your friends find you and add you to their friends list.
- Your overall game statistics are shown here (V).
- There are many achievements to unlock; view them here (W).
- Every time you obtain a new achievement, there will be a new reward; collect them here (X).
- A trophy will also be shown on the avatar portrait when you have a new reward to collect (Y).

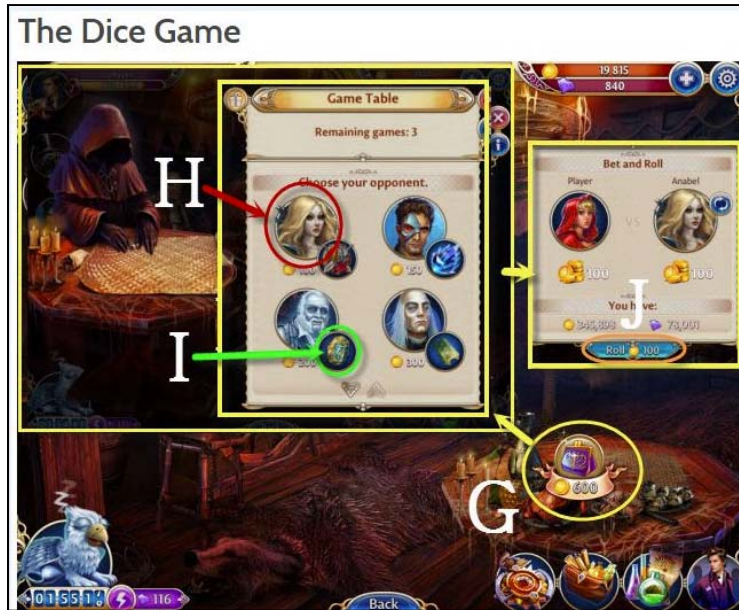
29. Upon information and belief, the following describes, at least in part, how the Big Fish software distribution and management system works:



30. Upon information and belief, the following describes, at least in part, how the Big Fish software distribution and management system works

- The Dice Game can be unlocked in the Tavern by spending coins (G).
- This is another method of acquiring coins in Midnight Castle.
- New opponents with higher wagers will be unlocked as you progress through the game.
- Choose your opponent here (H).
- You also have a chance to win a rare item (I).
- Select Roll (J) to play.

31. Upon information and belief, the following describes, at least in part, how the Big Fish software distribution and management system works:



32. Big Fish has directly infringed, and continues to directly infringe one or more claims of the '578 Patent in this judicial district and elsewhere in Texas, including at least claims 1-8, 10-24, 16-39, and 41-46 literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling the Big Fish software distribution and management system during the pendency of the '578 Patent which software and associated backend server architecture inter alia allows for installing application programs having a plurality of configurable preferences and authorized users on a network, distributing an application launcher program to a user, the user obtaining a set of configurable preferences, obtaining an administrator set of configurable preferences and executing the application program using the user and administrator sets of configurable preferences responsive to a request from a user.

33. In addition, should the Big Fish software distribution and management system be found to not literally infringe the asserted claims of the '578 Patent, the Big Fish software distribution and management system would nevertheless infringe the asserted claims of the '578 Patent. More specifically, the accused Big Fish software distribution and management system

performs substantially the same function (making computer programs available for digital download/management by an authorized user), in substantially the same way (via a launcher program in a client/server environment), to yield substantially the same result (distributing application programs in response to a request from one or more users on a network). Big Fish would thus be liable for direct infringement under the doctrine of equivalents.

34. Big Fish has indirectly infringed and continues to indirectly infringe at least claims 1-8, 10-24, 16-39, and 41-46 of the '578 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the using, offering for sale, selling, or importing the Big Fish software distribution and management system. Big Fish's customers who use the Big Fish software distribution and management system in accordance with Big Fish's instructions directly infringe one or more of the forgoing claims of the '578 Patent in violation of 35 U.S.C. § 271. Big Fish directly and/or indirectly instructs its customers through training videos, demonstrations, brochures, installation and/or user guides, such as those located at the following:

- www.bigfishgames.com
- www.susi.bigfishgames.com
- [https://itunes.apple.com.us.app](https://itunes.apple.com/us/app)
- <https://play.google.com/store/apps>
- www.youtube.com

Big Fish is thereby liable for infringement of the '578 Patent under 35 U.S.C. § 271(b).

35. Big Fish has indirectly infringed and continues to indirectly infringe at least claims 1-8, 10-24, 16-39, and 41-46 of the '578 Patent in this judicial district and elsewhere in the United States by, among other things, contributing to the direct infringement by others

including, without limitation customers using the Big Fish software distribution and management system, by making, offering to sell, selling and/or importing into the United States, a component of a patented machine, manufacture or combination, or an apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in infringing the '578 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

36. For example, the Big Fish software distribution and management system is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patent process. Furthermore, the Big Fish software distribution and management system is a material part of the claimed inventions and upon information and belief is not a staple article or commodity of commerce suitable for substantial non-infringing use. Big Fish is, therefore, liable for infringement under 35 U.S.C. § 271(c).

37. Big Fish will have been on notice of the '578 Patent since, at the latest, the service of this complaint upon Big Fish. By the time of trial, Big Fish will have known and intended (since receiving such notice) that its continued actions would actively induce, and contribute to, the infringement of one or more of claims 1-8, 10-24, 16-39, and 41-46 of the '578 Patent.

38. Big Fish may have infringed the '578 Patent through other software utilizing the same or reasonably similar functionality, including other versions of its software distribution and management system. Uniloc reserves the right to discover and pursue all such additional infringing software.

39. Uniloc has been damaged, reparably and irreparably, by Big Fish's infringement of the '578 Patent and such damage will continue unless and until Big Fish is enjoined.

COUNT II
(INFRINGEMENT OF U.S. PATENT NO. 7,069,293)

40. Uniloc incorporates paragraphs 1-39 above by reference.

41. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 7,069,293 (“the ’293 Patent”), entitled METHODS, SYSTEMS AND COMPUTER PROGRAM PRODUCTS FOR DISTRIBUTION OF APPLICATION PROGRAMS TO A TARGET STATION ON A NETWORK that issued on June 27, 2006. A true and correct copy of the ’293 Patent is attached as Exhibit B hereto.

42. Uniloc USA is the exclusive licensee of the ’293 Patent with ownership of all substantial rights therein, including the right to grant sublicenses, to exclude others, and to enforce, sue and recover past damages for the infringement thereof.

43. Big Fish has directly infringed, and continues to directly infringe one or more claims of the ’293 Patent in this judicial district and elsewhere in Texas, including at least claims 1, 6-7, 12, and 15-17 literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling the Big Fish software distribution and management system during the pendency of the ’293 Patent which software and associated backend server architecture inter alia allows for installing application programs having a plurality of configurable preferences and authorized users on a network, distributing an application launcher program to a user, the user obtaining a set of configurable preferences, obtaining an administrator set of configurable preferences and executing the application program using the user and administrator sets of configurable preferences responsive to a request from a user.

44. In addition, should the Big Fish software distribution and management system be found to not literally infringe the asserted claims of the ’293 Patent, the product would

nevertheless infringe the asserted claims of the '293 Patent. More specifically, the accused software/system performs substantially the same function (distributing application programs to a target on-demand server on a network), in substantially the same way (via a client/server environment to target on-demand users), to yield substantially the same result (making application programs available for use by target on-demand users). Big Fish would thus be liable for direct infringement under the doctrine of equivalents.

45. Big Fish has indirectly infringed and continues to indirectly infringe at least claims 1, 6-7, 12, and 15-17 of the '293 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the using, offering for sale, selling, or importing the Big Fish software distribution and management system. Big Fish's customers who use the Big Fish software distribution and management system in accordance with Big Fish's instructions directly infringe one or more of the forgoing claims of the '293 Patent in violation of 35 U.S.C. § 271. Big Fish directly and/or indirectly instructs its customers through training videos, demonstrations, brochures, installation and/or user guides, such as those located at the following:

- www.bigfishgames.com
- www.susi.bigfishgames.com
- [https://itunes.apple.com.us.app](https://itunes.apple.com/us/app)
- <https://play.google.com/store/apps>
- www.youtube.com

Big Fish is thereby liable for infringement of the '293 Patent under 35 U.S.C. § 271(b).

46. Big Fish has indirectly infringed and continues to indirectly infringe at least claims 1, 6-7, 12, and 15-17 of the '293 Patent in this judicial district and elsewhere in the

United States by, among other things, contributing to the direct infringement by others including, without limitation customers using the Big Fish software distribution and management system, by making, offering to sell, selling and/or importing into the United States, a component of a patented machine, manufacture or combination, or an apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in infringing the '293 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

47. For example, the Big Fish software distribution and management system is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patent process. Furthermore, the Big Fish software distribution and management system is a material part of the claimed inventions and upon information and belief is not a staple article or commodity of commerce suitable for substantial non-infringing use. Big Fish is, therefore, liable for infringement under 35 U.S.C. § 271(c).

48. Big Fish will have been on notice of the '293 Patent since, at the latest, the service of this complaint upon Big Fish. By the time of trial, Big Fish will have known and intended (since receiving such notice) that its continued actions would actively induce, and contribute to, the infringement of one or more of claims 1, 6-7, 12, and 15-17 of the '293 Patent.

49. Big Fish may have infringed the '293 Patent through other software utilizing the same or reasonably similar functionality, including other versions of its software distribution and management system. Uniloc reserves the right to discover and pursue all such additional infringing software.

50. Uniloc has been damaged, reparably and irreparably, by Big Fish's infringement of the '293 Patent and such damage will continue unless and until Big Fish is enjoined.

COUNT III
(INFRINGEMENT OF U.S. PATENT NO. 6,510,466)

51. Uniloc incorporates paragraphs 1-50 above by reference.

52. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 6,510,466 (“the ’466 Patent”), entitled METHODS, SYSTEMS AND COMPUTER PROGRAM PRODUCTS FOR CENTRALIZED MANAGEMENT OF APPLICATION PROGRAMS ON A NETWORK that issued on January 21, 2003. A true and correct copy of the ’466 Patent is attached as Exhibit C hereto.

53. Uniloc USA is the exclusive licensee of the ’466 Patent with ownership of all substantial rights therein, including the right to grant sublicenses, to exclude others, and to enforce, sue and recover past damages for the infringement thereof.

54. Big Fish has directly infringed, and continues to directly infringe one or more claims of the ’466 Patent in this judicial district and elsewhere in Texas, including at least claims 1-5, 7-9, 15-20, 22-24, 30-33, and 35-37 literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling the Big Fish software distribution and management system during the pendency of the ’466 Patent which software and associated backend server architecture inter alia allows for installing application programs having a plurality of configurable preferences and authorized users on a network, distributing an application launcher program to a user, the user obtaining a set of configurable preferences, obtaining an administrator set of configurable preferences and executing the application program using the user and administrator sets of configurable preferences responsive to a request from a user.

55. In addition, should the Big Fish software distribution and management system be found to not literally infringe the asserted claims of the ’466 Patent, the Big Fish software

distribution and management system would nevertheless infringe the asserted claims of the '466 Patent. More specifically, the accused Big Fish software distribution and management system performs substantially the same function (making computer games/software available for digital download/management), in substantially the same way (via a client/server environment), to yield substantially the same result (providing authorized games/software to a client for execution). Concur would thus be liable for direct infringement under the doctrine of equivalents.

56. Big Fish has indirectly infringed and continues to indirectly infringe at least claims 1-5, 7-9, 15-20, 22-24, 30-33, and 35-37 of the '466 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the using, offering for sale, selling, or importing the Big Fish software distribution and management system. Big Fish's customers who use the Big Fish software distribution and management system in accordance with Big Fish's instructions directly infringe one or more of the forgoing claims of the '466 Patent in violation of 35 U.S.C. § 271. Big Fish directly and/or indirectly instructs its customers through training videos, demonstrations, brochures, installation and/or user guides, such as those located at the following:

- www.bigfishgames.com
- www.susi.bigfishgames.com
- [https://itunes.apple.com.us.app](https://itunes.apple.com/us/app)
- <https://play.google.com/store/apps>
- www.youtube.com

Big Fish is thereby liable for infringement of the '466 Patent under 35 U.S.C. § 271(b).

57. Big Fish has indirectly infringed and continues to indirectly infringe at least claims 1-5, 7-9, 15-20, 22-24, 30-33, and 35-37 of the '466 Patent in this judicial district and

elsewhere in the United States by, among other things, contributing to the direct infringement by others including, without limitation customers using the Big Fish software distribution and management system, by making, offering to sell, selling and/or importing into the United States, a component of a patented machine, manufacture or combination, or an apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in infringing the '466 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

58. For example, the Big Fish software distribution and management system is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patent process. Furthermore, the Big Fish software distribution and management system is a material part of the claimed inventions and upon information and belief is not a staple article or commodity of commerce suitable for substantial non-infringing use. Big Fish is, therefore, liable for infringement under 35 U.S.C. § 271(c).

59. Big Fish will have been on notice of the '466 Patent since, at the latest, the service of this complaint upon Big Fish. By the time of trial, Big Fish will have known and intended (since receiving such notice) that its continued actions would actively induce, and contribute to, the infringement of one or more of claims 1-5, 7-9, 15-20, 22-24, 30-33, and 35-37 of the '466 Patent.

60. Big Fish may have infringed the '466 Patent through other software utilizing the same or reasonably similar functionality, including other versions of its software distribution and management system. Uniloc reserves the right to discover and pursue all such additional infringing software.

61. Uniloc has been damaged, reparably and irreparably, by Big Fish's infringement of the '466 Patent and such damage will continue unless and until Big Fish is enjoined.

PRAYER FOR RELIEF

Uniloc requests that the Court enter judgment against Big Fish as follows:

- (A) that Big Fish has infringed the '578 Patent, the '293 Patent and the '466 Patent;
- (B) awarding Uniloc its damages suffered as a result of Big Fish's infringement of the '578 Patent, the '293 Patent and the '466 Patent;
- (C) enjoining Big Fish, its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries and parents, and all others acting in concert or privity with it from infringing the '578 Patent, the '293 Patent and the '466 Patent;
- (D) awarding Uniloc its costs, attorneys' fees, expenses and interest, and
- (E) granting Uniloc such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Uniloc hereby demands trial by jury on all issues so triable pursuant to Fed. R. Civ. P. 38.

Dated: August 2, 2016

Respectfully submitted,

/s/ Craig Tadlock

Craig Tadlock

Texas State Bar No. 00791766

Keith Smiley

Texas State Bar No. 24067869

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