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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY _____

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10 Attorneys for Plaintiffs,
 11 Uniloc Corporation Pty Limited, Uniloc USA,
 12 Inc. and Uniloc (Singapore) Private Limited

13 **IN THE UNITED STATES DISTRICT COURT**
 14 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
 15 **SOUTHERN DIVISION**

16 UNILOC CORPORATION PTY
 17 LIMITED, an Australian Proprietary
 18 Limited Company, UNILOC USA,
 19 INC., a Rhode Island Corporation, and
 20 UNILOC (SINGAPORE) PRIVATE
 21 LIMITED, a Singapore Corporation

Plaintiffs,

v.

22 XTREAMLOK, PTY, an Australian
 23 Proprietary Limited Company; and
 24 SYMANTEC CORPORATION, a
 25 Delaware Corporation, and DOES 1 to
 26 10,

Defendants.

Civil Action No. _____

CV08-03574 DSF (CFx)

**COMPLAINT FOR PATENT
 INFRINGEMENT, BREACH OF
 CONTRACT and VIOLATION OF
 CAL. BUS. & PROF. CODE §§
 17200 ET SEQ**

Demand for Jury Trial

1 Plaintiffs Uniloc USA, Inc., Uniloc Corporation Pty Limited, and Uniloc
2 (Singapore) Private Limited (collectively “Uniloc”) file this complaint against
3 Defendants XstreamLok Pty Limited (“XstreamLok”) and Symantec Corporation
4 (“Symantec”), and allege as follows:
5

6 The Parties

7
8 1. Plaintiff Uniloc Corporation Pty Limited (hereinafter “Uniloc
9 Australia”) is a Proprietary Limited Company existing under the laws of
10 Australia. Plaintiff Uniloc USA, Inc. (hereinafter “Uniloc USA”) is a
11 corporation existing under the laws of Rhode Island. Plaintiff Uniloc
12 (Singapore) Private Limited (hereinafter “Uniloc Singapore”) is a limited
13 liability company existing under the laws of Singapore. Uniloc’s global
14 headquarters and principal place of business is within this judicial district at
15 3333 Michelson Drive, Suite 600, Irvine, California 92612.
16
17

18 2. On information and belief, Symantec Corporation (hereinafter
19 “Symantec”) is a Delaware corporation having a principal place of business at
20 20330 Stevens Creek Blvd., Cupertino, California 95014.
21

22 3. On information and belief, XstreamLok is a Proprietary Limited
23 Company existing under the laws of Australia. On information and belief,
24 XstreamLok is a wholly owned subsidiary of Symantec and/or Symantec is the
25 successor in interest to the business and obligations of XstreamLok.
26
27
28

1 4. Plaintiffs are ignorant of the true names of the defendants sued as
2 DOES 1 through 10 and such names are fictitious. Plaintiffs will amend their
3 Complaint if and when the true names of such defendants are ascertained.
4

5 Jurisdiction and Venue

6 5. This is an action for patent infringement arising under Title 35 of
7 the United States Code as hereinafter more fully appears. This Court has
8 jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1332. This is also an action for
9 related breach of contract and unfair business practices. This Court has
10 supplemental jurisdiction thereover pursuant to 28 U.S. 1367(a).
11
12

13 6. Upon information and belief, Defendants do business in this district
14 and have committed acts of patent infringement in this district. In addition, the
15 contract between the parties complained of herein was negotiated, entered into
16 and breached in this district. Moreover, the contract includes a forum selection
17 clause which specifies this District for the resolution of all disputes. Venue is
18 proper under 28 U.S.C. §§ 1391(b)(2) and 1400, and per the agreement of the
19 parties.
20
21

22 Background

23 7. The allegations in paragraphs 1-6 are incorporated by reference, as
24 if fully set forth herein.
25
26
27
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1 8. Uniloc, *inter alia*, researches, develops, manufactures and sells
2 technology security solutions, including solutions for securing software and
3 other forms of media.
4

5 9. On February 6, 1996, the United States Patent and Trademark
6 Office duly and legally issued U.S. Patent No. 5,490,216 (“the ‘216 Patent”).
7 The ‘216 Patent is entitled “System for Software Registration.” A true and
8 correct copy of the ‘216 Patent is attached hereto as Exhibit A.
9

10 10. The ‘216 Patent is generally directed to systems and methods for
11 securely registering software and other digital media to prevent software piracy.
12 Uniloc owns all rights, title, and interest in the ‘216 Patent.
13

14 11. On or about September 10, 2002, Uniloc entered into a Patent
15 License Agreement with XstreamLok. The Patent License Agreement granted
16 XstreamLok a non-exclusive license to use and sell the inventions described in
17 the ‘216 Patent in limited territories. A true and correct copy of the Patent
18 License Agreement is attached hereto as Exhibit B.
19
20

21 12. Pursuant to the terms of the Patent License Agreement, XstreamLok
22 was required to pay to Uniloc a royalty based on all revenues received by
23 XstreamLok for its sale of any of its products under the ‘216 Patent (“Licensed
24 Products”). In addition, the contract requires XstreamLok to provide information
25 and reports, pay a guaranteed minimum annual royalty as an advance against
26 any royalties due during that same annual period (“Guaranteed Minimum
27
28

1 Royalty”), permit Uniloc access to records necessary to permit an audit of the
2 royalties as paid and to submit to Uniloc samples of all Licensed Products.

3 13. On or after the effective date of the License Agreement, XtreamLok
4 sold Licensed Products to Symantec.

5
6 14. Symantec thereafter made payments to XtreamLok for its use of
7 Uniloc’s Licensed Products. On information and belief, Symantec’s royalty
8 payments to XtreamLok far exceeded the amounts reported to Uniloc under the
9 License Agreement and/or were arranged so as to artificially minimize such
10 amounts in an effort to wrongfully reduce the royalties payable to Uniloc under
11 the License Agreement. On information and belief, Symantec continued to
12 make payments to XtreamLok for its use of Uniloc’s Licensed Products in
13 amounts in excess of the amounts reported to Uniloc under the License
14 Agreement, or has sought to artificially minimize the reporting of such amounts
15 in an effort to wrongfully reduce the royalties payable to Uniloc under the
16 License Agreement.

17
18 15. XtreamLok has tendered to Uniloc, and Uniloc has rejected, the
19 Guaranteed Minimum Royalty under the Patent License Agreement. Uniloc is
20 informed and believes that such amounts understate the true amounts on which
21 royalties are due to Uniloc under the License Agreement.

22
23 16. On information and belief, in or about May 2005, Symantec
24 purchased XtreamLok. Thereafter, and continuing to the present, Symantec has
25

1 tendered to Uniloc, and Uniloc has rejected, the Guaranteed Minimum Royalty
2 to Uniloc under the Patent License Agreement. Uniloc is informed and believes
3 that such amounts understate the true amounts on which royalties are due to
4 Uniloc under the License Agreement.
5

6 17. Uniloc has demanded information pursuant to the audit provisions
7 of the License Agreement.
8

9 18. Defendants' actions have caused a failure of consideration of the
10 Patent License Agreement and Uniloc has provided notice of such failure and
11 its right to rescind the Patent License Agreement and/or Defendants' breach.
12

13 Count I – Breach of Written Contract

14 19. The allegations in paragraphs 1-18 above are incorporated by
15 reference, as if fully set forth herein.
16

17 20. On or about September 10, 2002, Uniloc entered into the Patent
18 License Agreement with XtreamLok.
19

20 21. XtreamLok breached the Patent License Agreement and/or caused a
21 failure of consideration of the Patent License Agreement by, including, but not
22 limited to, failing to pay the royalties due to Uniloc for XtreamLok's use and
23 sale of the Licensed Products, by failing to provide samples of the Licensed
24 Products to Uniloc for Uniloc's approval and by its failure to provide adequate
25 information to Uniloc to allow Uniloc to properly audit the royalty reports made
26 by XtreamLok and/or Symantec.
27
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1 22. XstreamLok breached the Patent License Agreement and/or caused a
2 failure of consideration of the Patent License Agreement by, *inter alia*,
3 improperly categorizing the bulk of the payments received from Symantec for
4 its use of Uniloc's Licensed Products as service fees instead of payments for use
5 of Uniloc's licensed products and thus failing to properly account to and pay
6 Uniloc the contracted royalty for the fees XstreamLok received from Symantec.
7

8
9 23. Symantec, as the successor in interest to XstreamLok and stands in
10 the shoes of XstreamLok, has breached the Patent License Agreement and/or
11 caused a failure of consideration of the Patent License Agreement by, including,
12 but not limited to, failing to pay the royalties due to Uniloc for Symantec's use
13 and sale of the Licensed Products and for failing to provide samples to Uniloc of
14 the Licensed Products.
15

16
17 24. As a result of Defendants' breach of the Patent License Agreement,
18 and/or as a result of the failure of consideration caused by the Defendants'
19 actions, Uniloc has failed to receive the benefit of the bargain of the Patent
20 License Agreement. As a result, Uniloc has suffered, and continues to suffer
21 damages and irreparable injury, and Defendants and each of them have been
22 unjustly enriched.
23

24
25 Count II – Infringement of U.S. Patent No. 5,490,216

26 25. The allegations in paragraphs 1-24 above are incorporated by
27 reference, as if fully set forth herein.
28

1 26. XstreamLok's manufacture, use, offers to sell and sales of software
2 security products, including, but not limited to, the Licensed Products, has
3 directly infringed and continues to directly infringe one or more claims of the
4 '216 Patent.
5

6 27. XstreamLok's actions have actively induced others to infringe one
7 or more claims of the '216 Patent and/or has contributed to the infringement of
8 one or more of the claims of the '216 Patent by XstreamLok's customers and/or
9 their products.
10

11 28. On information and belief, Symantec manufactures, uses, offers to
12 sell and sells software security products, including, but not limited to, Norton
13 AntiVirus, using the technology licensed in the Patent License Agreement,
14 including sales outside the Territory of the Patent License Agreement. As such,
15 Symantec has directly infringed and continues to directly infringe one or more
16 claims of the '216 Patent.
17

18 29. Symantec's actions have actively induced others to infringe one or
19 more claims of the '216 Patent and/or has contributed to the infringement of one
20 or more of the claims of the '216 Patent by Symantec's customers and/or their
21 products.
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23
24

25 Count III – Violation of Cal. Bus. & Prof. Code §§ 17200 et seq

26 30. The allegations in paragraphs 1-29 above are incorporated by
27 reference, as if fully set forth herein.
28

1 31. Defendants' actions alleged above constitute unlawful, unfair or
2 fraudulent business acts or practice in violation of the California Business &
3 Professions Code §§ 17200 *et seq.*
4

5 Prayer for Relief

6 WHEREFORE, plaintiff Uniloc respectfully prays that the Court enter
7 judgment in their favor and against Defendants as follows:
8

9 a. That XtreamLok be adjudged to have breached the Patent License
10 Agreement;

11 b. That Symantec be adjudged to have breached the Patent License
12 Agreement;

13 c. That the Patent License Agreement be rescinded;

14 d. That Uniloc be awarded all damages and/or quantum meruit and/or
15 unjust enrichment to which it is entitled as a result of Defendants' breach of the
16 Patent License Agreement and/or the failure of consideration.
17

18 e. That XtreamLok be adjudged to have directly infringed, induced
19 others to infringe and/or contributed to the infringement of one or more claims
20 of the '216 Patent;
21

22 f. That XtreamLok's infringement is found to have been willful,
23 deliberate, and with actual knowledge of the '216 patent;
24
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1 g. That Symantec be adjudged to have directly infringed, induced
2 others to infringe and/or contributed to the infringement of one or more claims
3 of the '216 Patent;

4
5 h. That Symantec's infringement is found to have been willful,
6 deliberate, and with actual knowledge of the '216 patent;

7
8 i. That Uniloc be awarded all damages to which it is entitled under 35
9 U.S.C. §284;

10 j. That such damages be trebled pursuant to 35 U.S.C. § 284;

11
12 k. That the Court enter a preliminary and permanent injunction
13 barring Defendants, their officers, agents, servants, employees and attorneys,
14 alter-egos and their successors and assigns, as well as those persons in active
15 concert or participation with them who receive actual notice of the judgment,
16 from infringing, actively inducing the infringement of and/or contributing to the
17 infringement of any claim of the '216 Patent, including, but not limited to
18 making, importing, using, offering for sale, or selling any devices or systems
19 that infringe, or using processes that infringe the '216 Patent;

20
21
22 l. That the Court find that this is an exceptional case under 35 U.S.C.
23 §285 entitling Uniloc to an award of its attorneys' fees;

24
25 m. That Uniloc be awarded its costs and interest; and
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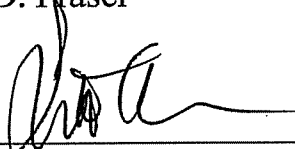
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n. That Uniloc receive such other and further relief as the Court deems just and proper.

Respectfully Submitted,

Connolly Bove Lodge & Hutz LLP
Scott R. Miller
Keith D. Fraser

Dated: May 30, 2008.

By: 
Scott R. Miller

Attorneys for Plaintiffs
Uniloc USA, Inc., Uniloc Corporation
Pty Limited, and Uniloc (Singapore)
Private Limited

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Demand for Jury Trial

Pursuant to Fed. R. Civ. P. 38(b) and Local Rule 38-1, plaintiffs Uniloc USA, Inc., Uniloc Corporation Pty Limited, and Uniloc (Singapore) Private Limited hereby demand a trial by jury on all issues so triable.

Respectfully Submitted,

Connolly Bove Lodge & Hutz LLP
Scott R. Miller
Keith D. Fraser

Dated: May 30, 2008.

By: 
Scott R. Miller

Attorneys for Plaintiffs
Uniloc USA, Inc., Uniloc Corporation
Pty Limited, and Uniloc (Singapore)
Private Limited

EXHIBIT A

United States Patent [19]
Richardson, III

[11] **Patent Number:** 5,490,216
 [45] **Date of Patent:** Feb. 6, 1996

[54] **SYSTEM FOR SOFTWARE REGISTRATION**

[75] **Inventor:** Frederic B. Richardson, III,
 Brookvale, Australia

[73] **Assignee:** Uniloc Private Limited, Singapore

[21] **Appl. No.:** 124,718

[22] **Filed:** Sep. 21, 1993

[30] **Foreign Application Priority Data**

Sep. 21, 1992 [AU] Australia PL4842
 Oct. 26, 1992 [AU] Australia PL5524

[51] **Int. Cl.⁶** H04L 9/00

[52] **U.S. Cl.** 380/4; 380/23

[58] **Field of Search** 380/3, 4, 23, 24,
 380/25

[56] **References Cited**

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FOREIGN PATENT DOCUMENTS

WO9209160 5/1992 WIPO .

Primary Examiner—David C. Cain
Attorney, Agent, or Firm—Knobbe, Martens, Olson & Bear

[57] **ABSTRACT**

A registration system allows digital data or software to run in a use mode on a platform if and only if an appropriate licensing procedure has been followed. Preferably, the system detects when part of the platform on which the digital data has been loaded has changed in part or in entirety, as compared with the platform parameters, when the software or digital data to be protected was last booted or run. The system relies on a portion of digital data or code which is integral to the digital data to be protected by the system. This integral portion is termed the code portion and may include an algorithm that generates a registration number unique to an intending licensee of the digital data based on information supplied by the licensee which characterizes the licensee. The algorithm in the code portion is duplicated at a remote location on a platform under the control of the licensor or its agents, and communication between the intending licensee and the licensor or its agent is required so that a matching registration number can be generated at the remote location for subsequent communication to the intending licensee as a permit to licensed operation of the digital data in a use mode. The code portion can be identical for all copies of the digital data. The algorithm provides a registration number which can be "unique" if the details provided by the intending licenses upon which the algorithm relies when executed upon the platform are themselves "unique".

20 Claims, 12 Drawing Sheets

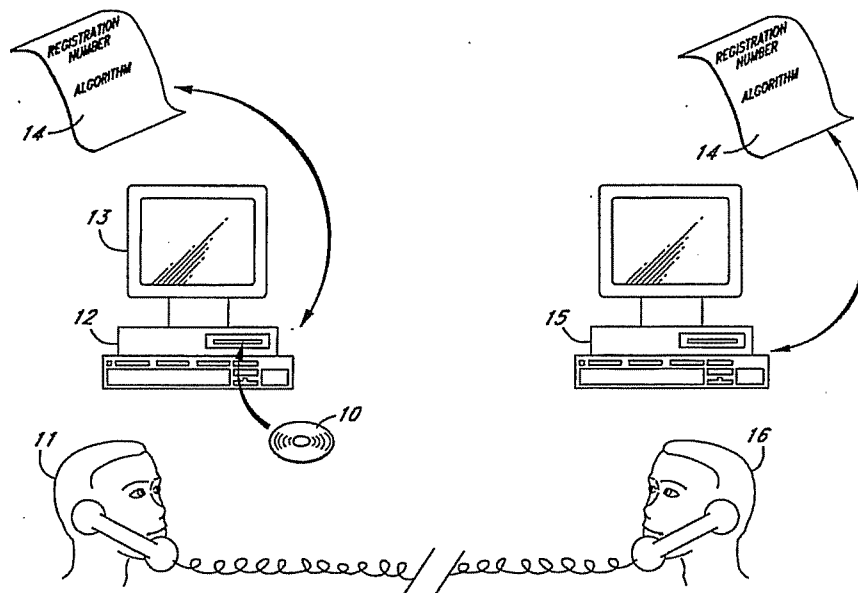


EXHIBIT A

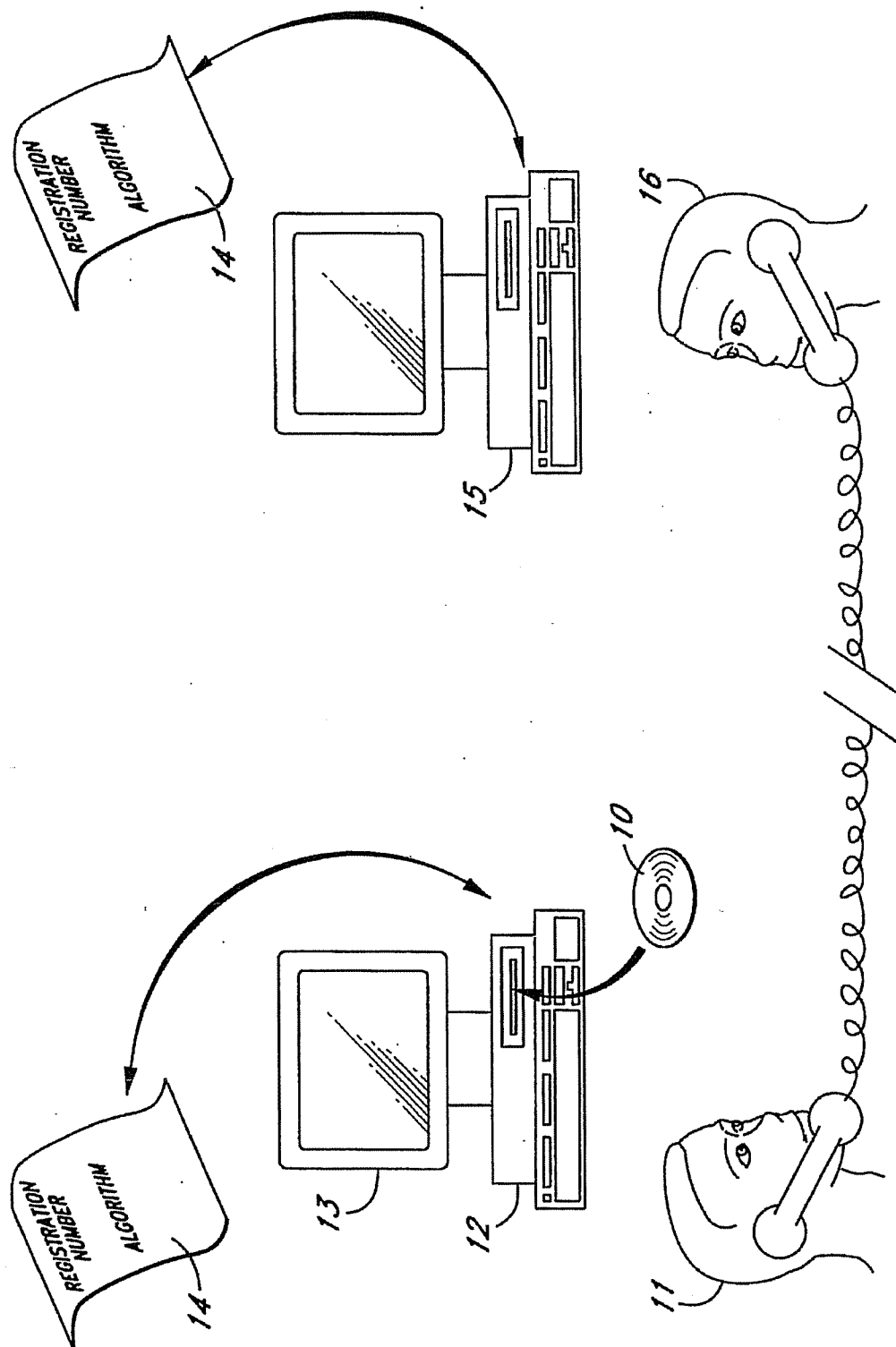


FIG. 1

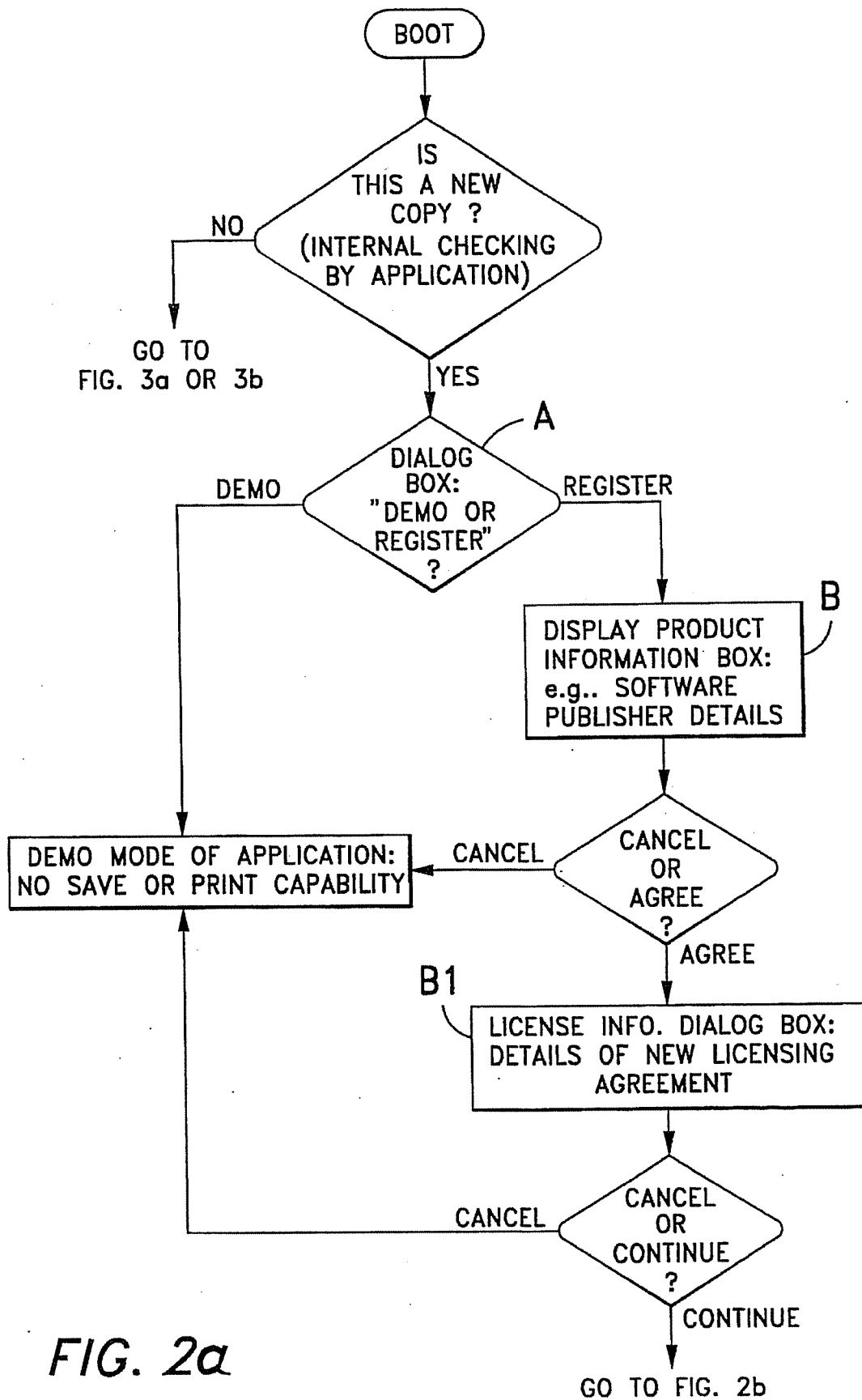


FIG. 2a

FIG. 2b

FROM FIG. 2a

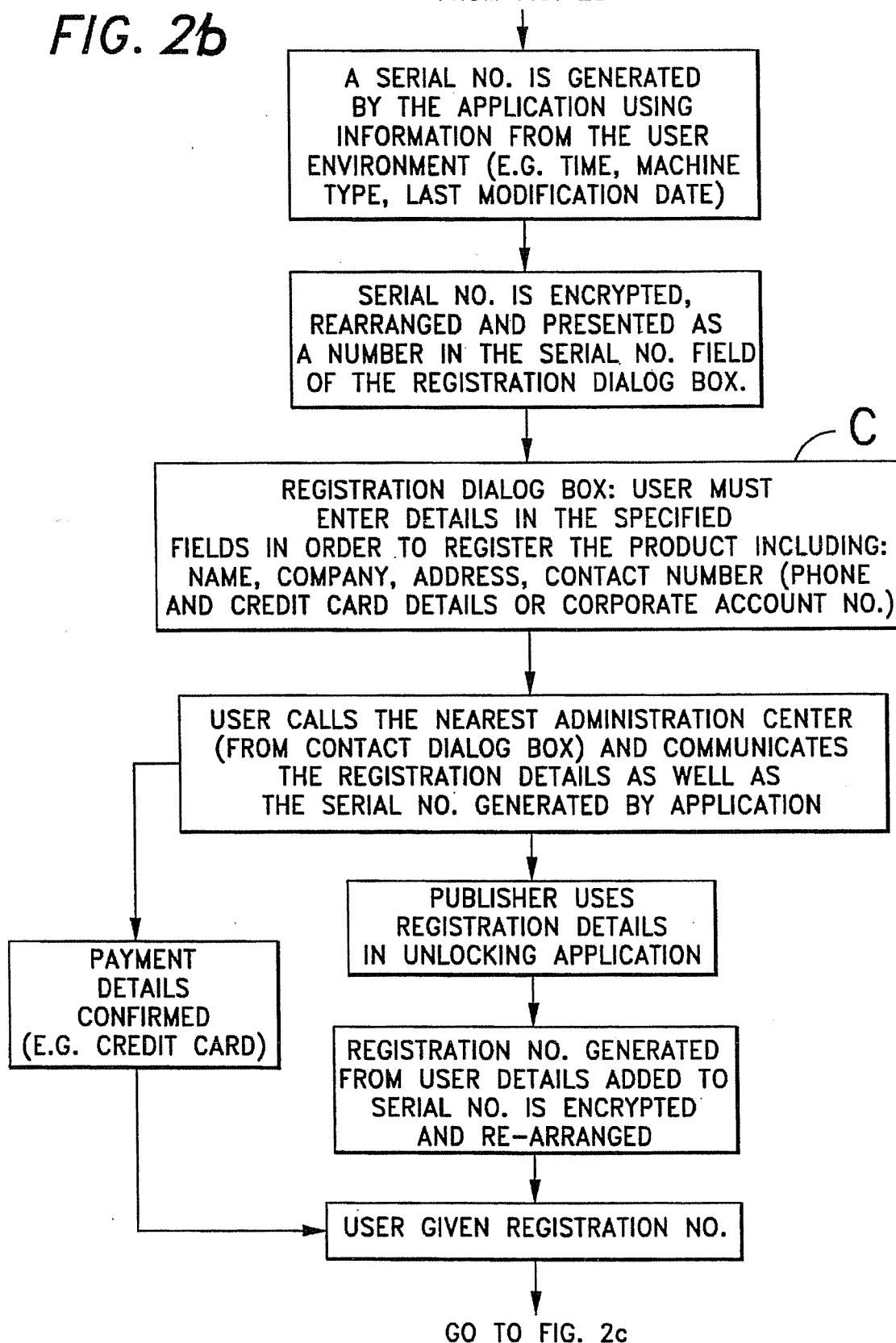


FIG. 2c

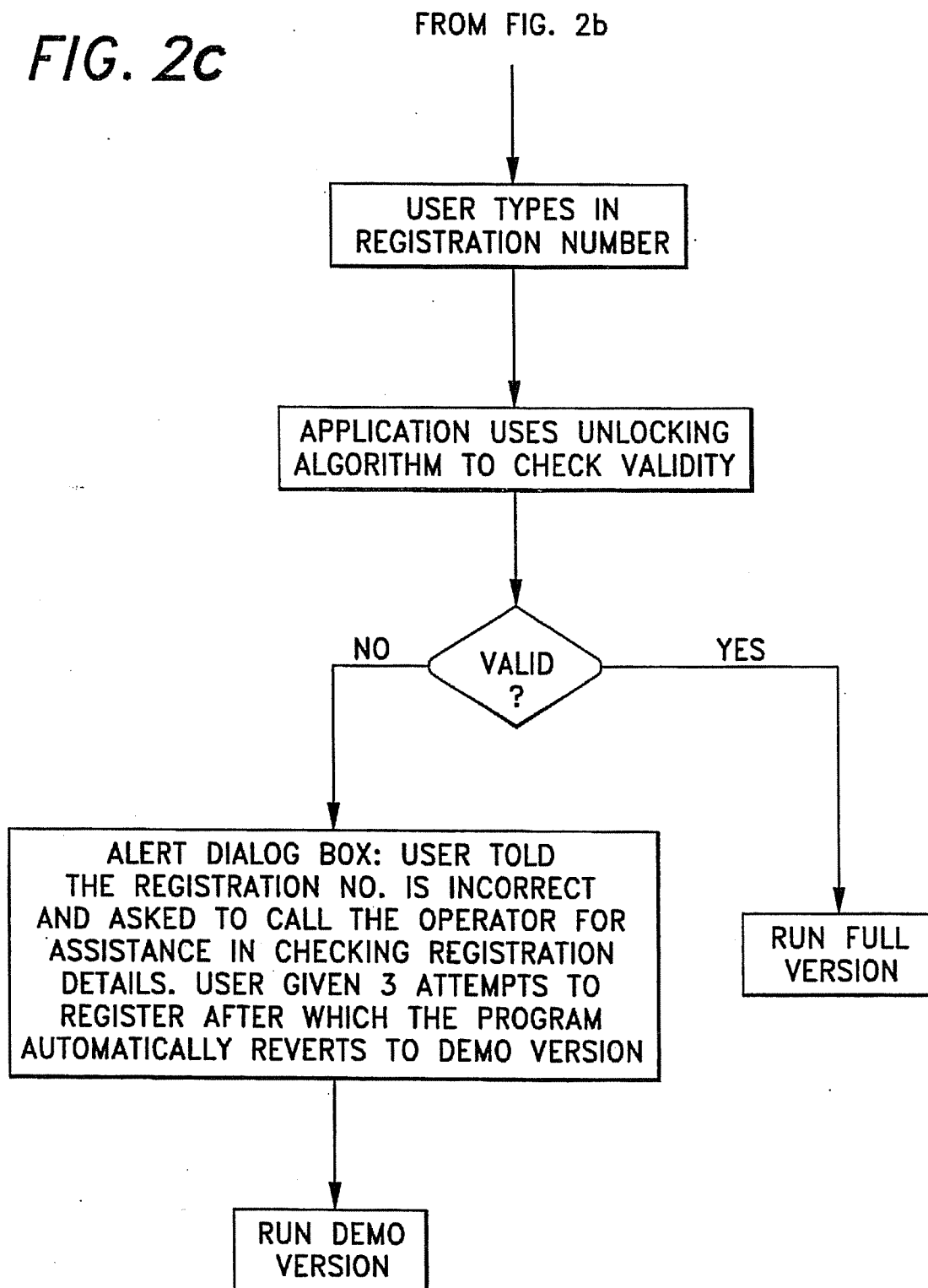
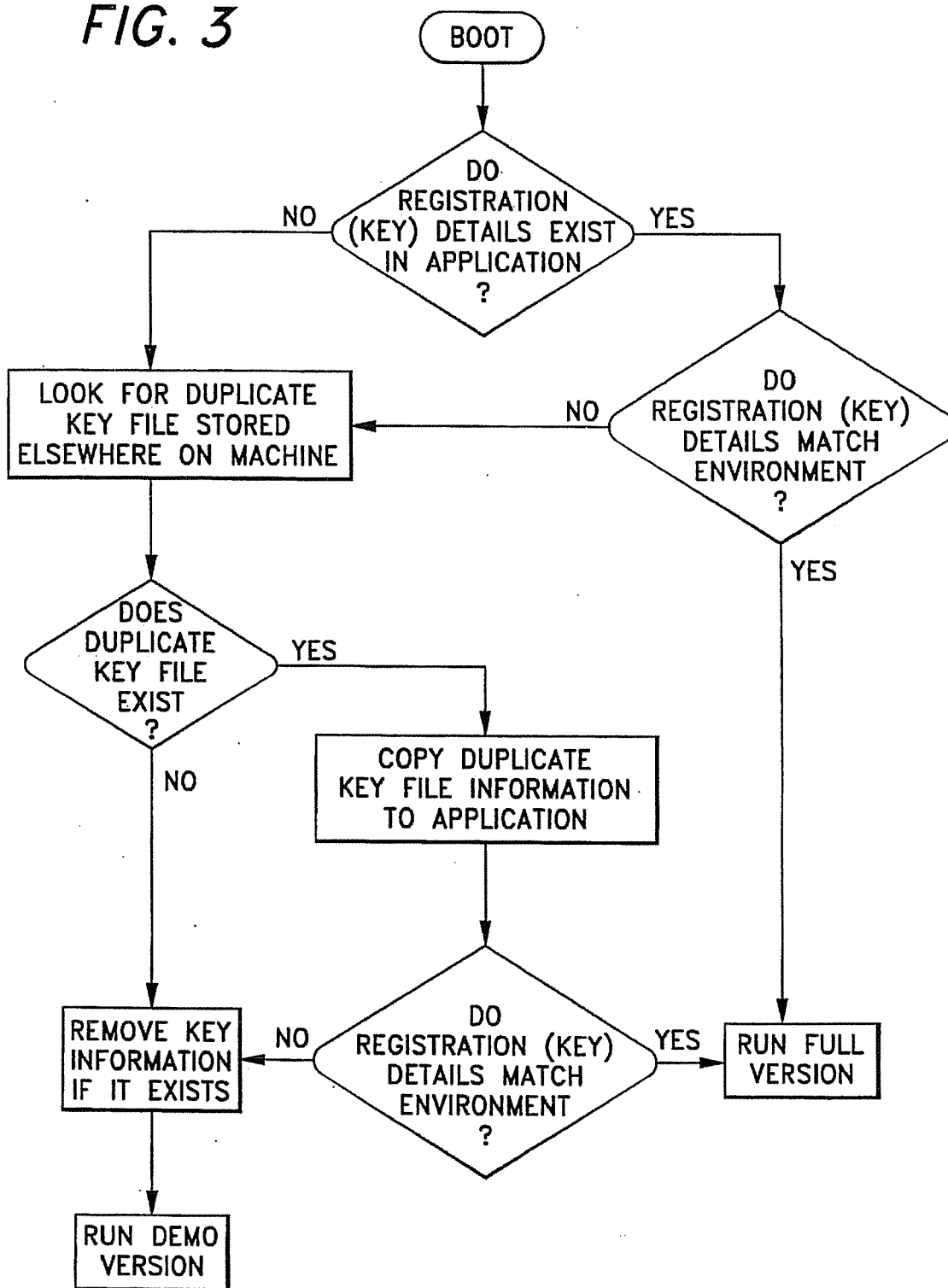


FIG. 3



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NAME:	<input type="text"/>
ORGANIZATION	<input type="text"/>
ADDRESS	<input type="text"/>
CITY	<input type="text"/>
ZIP/POST CODE	<input type="text"/>
COUNTRY	<input type="text"/>
CREDIT CARD/ORDER#	<input type="text"/>
EXPIRE DATE	<input type="text"/>
LAST USER NO.	<input type="text"/>
SERIAL NO.	<input type="text"/>
PRODUCT NO.	<input type="text"/>
YOUR USER NO.	<input type="text"/>
REGISTRATION NO.	<input type="text"/>

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FIG. 4

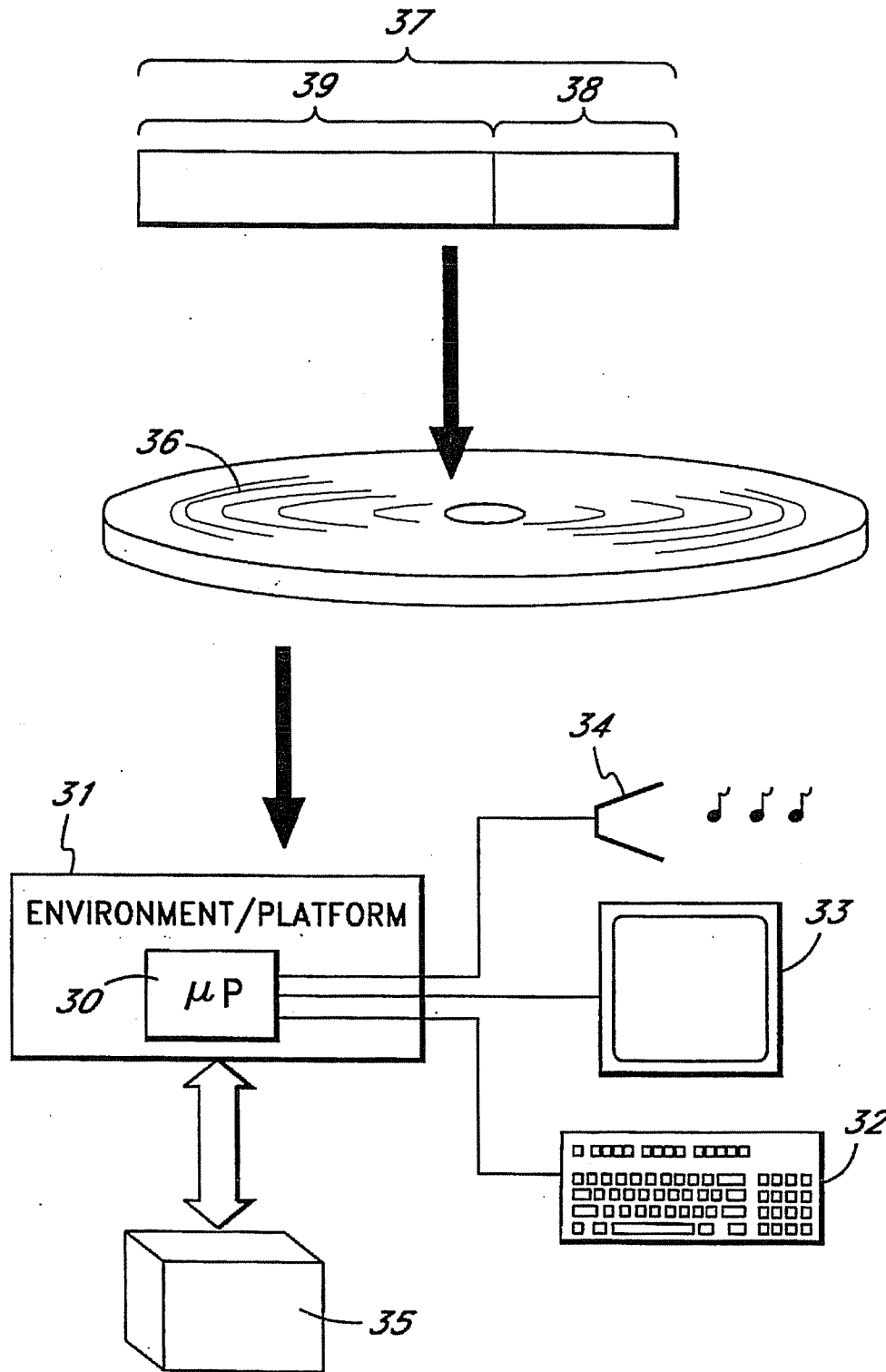


FIG. 5

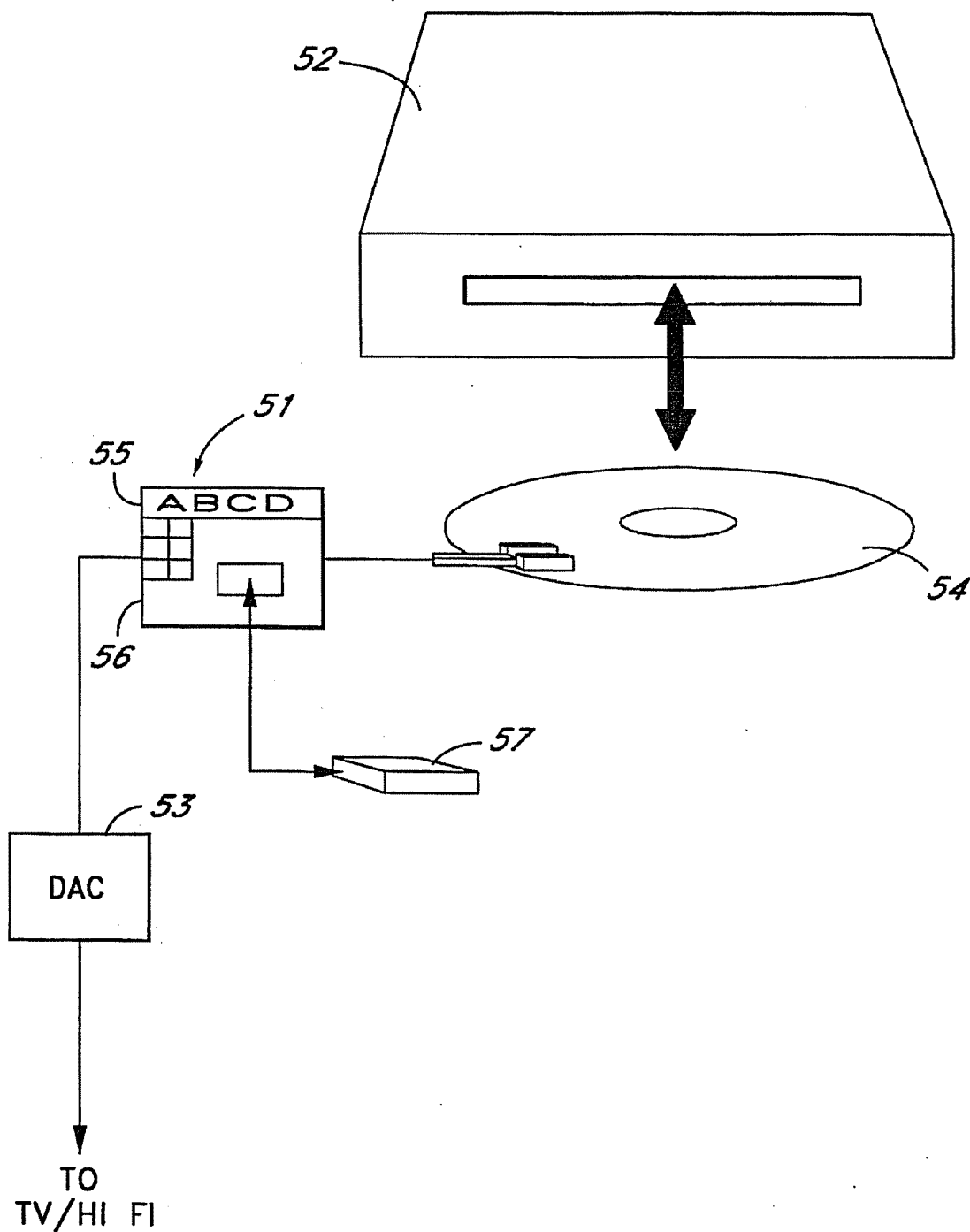


FIG. 6