

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

	§	
UNILOC USA, INC., and	§	
UNILOC LUXEMBOURG, S.A.,	§	Civil Action No. 6:15-cv-1005
	§	
Plaintiffs,	§	
	§	
v.	§	PATENT CASE
	§	
EMBARCADERO	§	
TECHNOLOGIES, INC.,	§	
	§	JURY TRIAL DEMANDED
Defendant.	§	
	§	

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

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

THE PARTIES

1. Uniloc USA, Inc. (“Uniloc USA”) 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 placed of business at 102 N. College, Suite 603, Tyler, Texas 75702.
2. Uniloc Luxembourg S.A. (“Uniloc Luxembourg”) 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 has researched, developed, manufactured and licensed information security technology solutions, platforms and frameworks, including solutions for securing

software applications and digital content. Uniloc Luxembourg has been awarded and owns a number of patents. Uniloc's technologies enable, for example, software and content publishers to distribute and sell their valuable technologies securely and with a minimum burden to their legitimate and authorized end users. Uniloc's technologies are used in several markets, including property rights management and critical infrastructure security.

4. Upon information and belief, Embarcadero is a Delaware corporation having a principal place of business at 275 Battery Street, Suite 1000, San Francisco, California 94111 and does business in Texas at 10801 North Mopac Expressway, Building 1, Suite 100, Austin, Texas 78759 and the judicial Eastern District of Texas. Embarcadero may be served with process through its registered agent in Texas, Jerry Tippitt, 2323 S. Shepherd, Suite 910, Houston, Texas 77019.

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, Embarcadero is deemed to reside in this judicial district, has committed acts of infringement in this judicial district, has purposely transacted business involving the accused products in this judicial district and/or has a regular and established place of business in this judicial district.

7. Embarcadero 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, and (B) regularly doing or

soliciting business, engaging in persistent conduct and/or deriving substantial revenue from goods and services provided to customers in Texas and maintaining a regular and established place of business at 10801 North Mopac Expressway, Building 1, Suite 100, Austin, Texas 78759.

COUNT I
(INFRINGEMENT OF U.S. PATENT NO. 7,024,696)

8. Uniloc incorporates paragraphs 1-7 above by reference.
9. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 7,024,696 (“the ‘696 Patent”), entitled METHOD AND SYSTEM FOR PREVENTION OF PIRACY OF A GIVEN SOFTWARE APPLICATION VIA A COMMUNICATIONS NETWORK that issued on April 4, 2006. A true and correct copy of the ‘696 Patent is attached as Exhibit A hereto.
10. Uniloc USA is the exclusive licensee of the ‘696 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, the Embarcadero software activation process:

Registering Your Product

The registration dialog box appears when you start a product that is not registered. You must register your product with Embarcadero Technologies; an unregistered product will shut down and stop running.

To register your product, you need the following:

- > **Serial Number:** If you used a serial number to install the product, the serial number should be prepopulated in the registration dialog box. If the serial number is not present, please enter it in the registration dialog box, including hyphens.
- > **Embarcadero Developer Network ID:** You need to provide your EDN user name and password in the registration dialog box.
 - > To obtain an EDN account, go to <http://edn.embarcadero.com>.

If you have any issues with registering your product, please contact Product Support at <http://www.embarcadero.com/support>.

12. Upon information and belief, the following describes, at least in part, the

Embarcadero software activation process:

Which types of licenses are available?

Delphi is available with multiple licensing options including:

- Individual named user licenses delivered via electronic software delivery (ESD) as a download and serial number. Discounted 5-packs and 10-packs are also available.
- Network Named and Concurrent user licenses managed using Embarcadero AppWave provide the additional flexibility of managing licenses on a license server plus software provisioning
- Network licenses managed by Flexera FlexNet are available on a special request basis
- Academic individual licenses for students and educators as well as volume licenses for classroom use

13. Upon information and belief, the following describes, at least in part, the System

Requirements for Embarcadero's software activation process:

System Requirements

- > Intel Pentium processor or compatible, 1.6GHz minimum (2GHz+ recommended)
- > Mouse or other pointing device
- > DVD-ROM drive (if installing from a Media Kit DVD)
- > 1024x768 or higher resolution monitor
- > Basic GPU:
 - > Any vendor DirectX 11.0 class or better
 - > For 3D graphics, Direct3D 11.1 or better (Pixel Shader Level 5) is preferred, but the installed version of Direct3D will be used
 - > You can download Direct3D from [http://msdn.microsoft.com/en-us/library/windows/desktop/hh404562\(v=vs.85\).aspx](http://msdn.microsoft.com/en-us/library/windows/desktop/hh404562(v=vs.85).aspx) (files Windows6.1-KB2670838-x64.msu or Windows6.1-KB2670838-x86.msu)
 - > Additional memory requirements for 3D: System must allow for resources greater than 4GB in size, while keeping indices of all resources at 32-bit
- > Color quality above 256 colors (32-bit or 16-bit is sufficient)
- > 1 GB RAM (2 GB+ recommended)
- > Between 3 and 45 GB (or more) **Free disk space** are required, depending on your edition and configuration
 - > 0.5-2.0 GB additional temporary free space for use by the installer
 - > Total disk space required can be as much as 45 GB
 - For the **Starter Edition**, only 2 GB are required
- > Host OS:
 - > Microsoft® Windows 8 or 8.1 (32-bit and 64-bit)
 - > Microsoft Windows 7 SP1 (32-bit and 64-bit)

14. Upon information and belief, the following describes, at least in part, the

Embarcadero software activation process:

What is the official license wording related to the restrictions?

In the event Licensee has obtained a Starter edition license, the following terms hereby apply. To the extent they conflict with the license grant in Section 2.1, these terms shall control. Licensee may use the Product to develop software (i) for which Licensee does not charge directly or indirectly a fee or receive other consideration including but not limited a license fee, a service fee, a development fee, a consulting fee, a subscription fee, a support fee, a hosting fee or the like and (ii) for which Licensee only charges fees (including but not limited a license fee, a service fee, a development fee, a consulting fee, a subscription fee, a support fee, a hosting fee or the like) that cumulatively, on an annual basis, do not exceed US \$1,000. In the event any (for profit or non-profit) company elects to license the software then (i) the total company revenues may not exceed US \$1,000 and (ii) the total number of Starter Edition licenses deployed may not exceed 5.

Are the Starter editions a good choice for schools?

Embarcadero offers academic discounts on the Professional, Enterprise and Architect editions with pricing lower than the Starter pricing, so we recommend the higher editions for academic use. Also, the Starter editions have a limit of 5 simultaneous users per subnet, so they aren't suitable for classroom or lab use with multiple users.

Why is there a limit of five users per subnet?

If a single user starts two instances of a Starter edition product, does that count as two toward the maximum of five?

15. Upon information and belief, the following describes, at least in part, the

Embarcadero software activation process:

Serial Number (License Key)

The serial number, also called the license key, that you enter determines the product that will be installed, the product edition (such as Starter, Professional, Enterprise Ultimate or Architect), and the type of license (commercial, academic or trial).

16. Upon information and belief, the following describes, at least in part, the Embarcadero software activation process:

The screenshot shows the "Embarcadero Product Registration" dialog box for "RAD Studio XE7". The "Serial Number" field is highlighted with a red box and contains the value "J4HD-YRADC7-KRR2CA-DB8D". The "Registration Code" is "16033301". The "EDN Login Name or Email" is "ulbahar2@gmail.com". The "EDN Password" is masked with dots. There are buttons for "Advanced >>", "Register Later", "Register", and "Cancel". A "Progress" bar is visible at the bottom.

17. Upon information and belief, the following describes, at least in part, the Embarcadero software activation process:

Embarcadero Product Registration

RAD Studio XE7

Serial Number:
J4HD-YRADC7-KRR2CA-DB8D Advanced >>

Registration Code:
16033301

EDN Login Name or Email:
ulbahar2@gmail.com

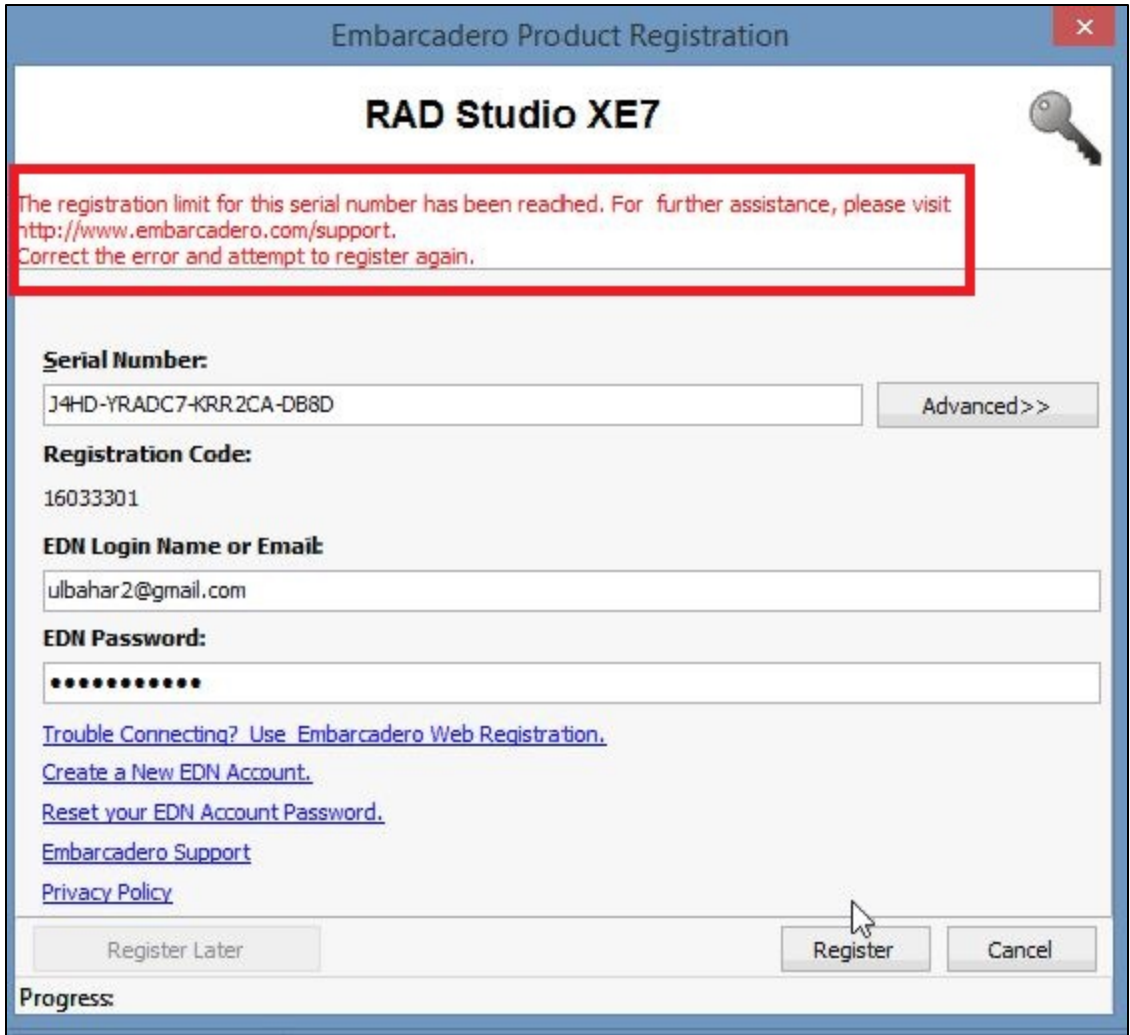
EDN Password:
●●●●●●●●

[Trouble Connecting? Use Embarcadero Web Registration.](#)
[Create a New EDN Account.](#)
[Reset your EDN Account Password.](#)
[Embarcadero Support](#)
[Privacy Policy](#)

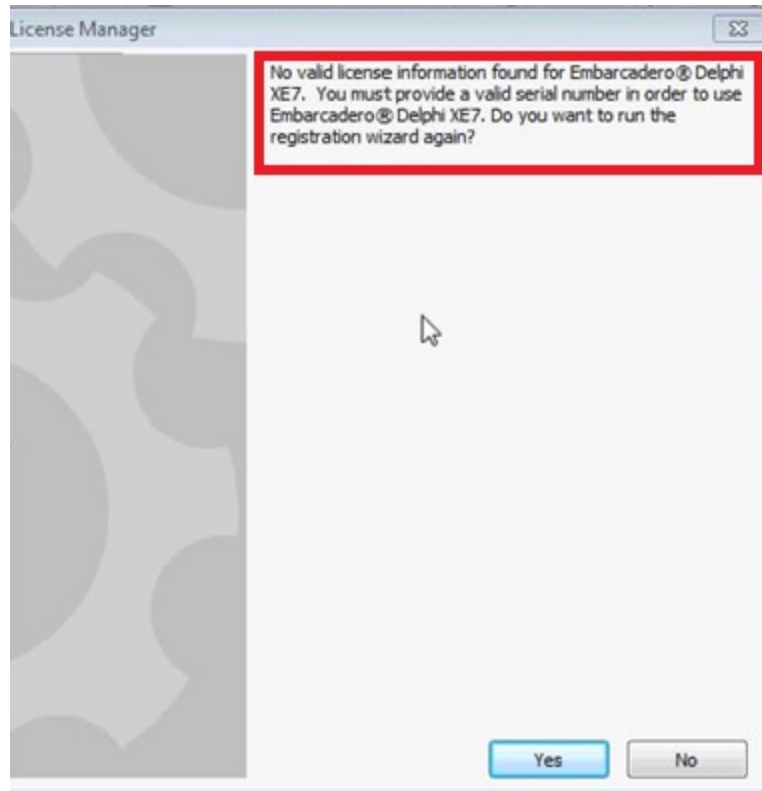
Register Later Register Cancel

Progress

18. Upon information and belief, the following describes, at least in part, the Embarcadero software activation process:



19. Upon information and belief, the following describes, at least in part, the Embarcadero software activation process:



20. Embarcadero has directly infringed one or more claims of the '696 Patent in this judicial district and elsewhere in Texas, including at least claim 1, either literally or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling software that implements piracy prevention technology including, without limitation, RAD Studio XE7 and Delphi XE7 products.

21. Embarcadero may have infringed the '696 Patent through other software utilizing the same or reasonably similar activation functionality, including other versions of the RAD Studio XE7 and Delphi XE7 software and XE8 software. Uniloc reserves the right to discover and pursue all such additional infringing software. For the avoidance of doubt, the RAD Studio XE7 and Delphi XE7 software is identified for exemplary purposes and in no way limits the discovery and infringement allegations against Embarcadero concerning other software that incorporated the same or reasonably similar activation functionality.

22. Uniloc has been damaged, reparably and irreparably, by Embarcadero's infringement of the '696 Patent and such damage will continue unless and until Embarcadero is enjoined.

23. Uniloc has entered into a Patent License, Release and Settlement Agreement with Flexera Software LLC ("Flexera"). Uniloc is not alleging infringement of the '696 Patent based on any product, software, system, method or service provided by Flexera Software LLC or any Flexera Predecessor ("Flexera Products"). For the purposes of this action, a Flexera Predecessor is any predecessor business owned or controlled by Flexera, including, but not limited to, C-Dilla Limited, GLOBEtrotter Software, Inc., InstallShield Software Corporation, Flexera Holding LLC, Flex co Holding Company, Inc., Flexera Software Inc., Acreso Software Inc., Intraware, Inc., Managesoft Corporation, HONICO Software GmbH, LinkRight Software L.L.C., and Logiknet, Inc. (d/b/a SCCM Expert) and only to the extent of, and limited to, the specific business, technologies and products acquired by Flexera from each of them, and Macrovision Corporation (renamed Rovi Solutions Corporation in July 2009) only to the extent of, and limited to, the specific business, technologies and products acquired by Flexera Holdings Company, Inc. in April 2008 (renamed Acreso Software Inc.), which later changed its name in October 2009 to Flexera Software LLC. For purposes of this action, Flexera Products do not include any third party products or services that provide activation, entitlement, licensing, usage monitoring and management, auditing, or registration functionality or third party products and services that are activated, licensed or registered exclusively and independently of products, software, systems, methods or services provided by Flexera or Flexera Predecessors. All allegations of past infringement against defendant(s) herein are made exclusively and independently of the authorized use of Flexera Products.

PRAYER FOR RELIEF

Uniloc requests that the Court enter judgment against Embarcadero as follows:

- (A) that Embarcadero has infringed the '696 Patent;
- (B) awarding Uniloc its damages suffered as a result of Embarcadero's infringement of the '696 Patent pursuant to 35 U.S.C. § 284;
- (C) enjoining Embarcadero, 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 '696 Patent pursuant to 35 U.S.C. § 283;
- (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: November 20, 2015.

Respectfully submitted,

By: /s/ Craig Tadlock
Craig Tadlock
Texas State Bar No. 00791766
Keith Smiley
Texas State Bar No. 24067869
TADLOCK LAW FIRM PLLC
2701 Dallas Parkway, Suite 360
Plano, TX 75093
Tel: (903) 730-6789
Email: craig@tadlocklawfirm.com
Email: keith@tadlocklawfirm.com

Paul J. Hayes
Robert R. Gilman
Kevin Gannon

HAYES MESSINA GILMAN & HAYES LLC

200 State Street, 6th Floor

Boston, MA 02109

Telephone: (617) 345-6900

Facsimile: (617) 443-1999

Email: phayes@hayesmessina.com

Email: rgilman@hayesmessina.com

Email: kgannon@hayesmessina.com

ATTORNEYS FOR THE PLAINTIFFS