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-571
	§	**JURY TRIAL DEMANDED**
Plaintiffs,	§	
v.	§	
GOOGLE INC.,	§	
Defendant.	§	

ORIGINAL COMPLAINT
FOR PATENT INFRINGEMENT

Plaintiffs, Uniloc USA, Inc. and Uniloc Luxembourg, S.A. (together "Uniloc"), as and for their complaint against defendant, Google Inc. ("Defendant"), 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 place 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 owns and has been awarded a number of patents. Uniloc's technologies enable, for example, software and content publishers to securely distribute and sell

their high value technology assets with minimum burden to their legitimate end users. Uniloc's technology are used in several markets, including, for example, software and game security, identity management, intellectual property rights management, and critical infrastructure security.

4. Upon information and belief, Defendant is a Delaware corporation having a principal place of business at 1600 Amphitheatre Pkwy, Mountain View, CA, 94043 and offers 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. Defendant may be served with process through its registered agent: Corporation Service Company, 2711 Centerville Road, Ste. 400, Wilmington, DE 19808.

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, Defendant 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. Defendant 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.

PATENT-IN-SUIT

8. U.S. Patent No. 8,566,960 (the '960 Patent"), entitled SYSTEM AND METHOD FOR ADJUSTABLE LICENSING OF DIGITAL PRODUCTS was filed on November 17, 2008 and claims priority to Provisional Application No. 60/988,778, filed on November 17, 2007. The '960 Patent issued on October 22, 2013. A true and correct copy of the '960 Patent is attached as Exhibit A hereto.

9. The '960 Patent spent nearly five years being examined at the United States Patent and Trademark Office. During examination of the '960 Patent, trained United States Patent Examiners considered more than two-hundred twenty (220) references before determining that the inventions claimed in the '960 Patent deserved patent protection. Such references include, for example, various references from IBM, Microsoft, Amazon, Northrop Grumman Corporation, Audible, Inc., Digital Equipment Corporation, Intel, AT&T, Fujitsu, Avaya, California Institute Of Technology, Disney, Adobe, Canon, Texas Instruments, Napster, NBC, Sony, Samsung, EBay, and Alcatel.

10. The '960 Patent issued after *Bilski v. Kappos*, 561 U.S. 593 (2010), and *Mayo Collaborative Servs'. v. Prometheus Labs., Inc*., 132 S. Ct. 1289 (2012). And although the examinations predated *Alice Corp. v. CLS Bank Int'l*, 134 S. Ct. 2347 (2014), that case applied the *Mayo* framework and stated that its holding "follows from our prior cases, and *Bilski* in particular …."

11. The '960 Patent claims technical solutions to problems unique to computer networks, such as controlling access to digital products in a manner that allows authorized

customers the freedom to access the digital products even if using various electronic devices over time, while mitigating the risk that software licenses are illegitimately "shared amongst end users or even in worst case shared anonymously over the Internet resulting in massive piracy and copyright abuse of the product." (*See, e.g.*, '960 Patent, col. 1, lines 30-60).

12. Although the systems and methods taught in the '960 Patent have been adopted by leading businesses today, at the time of invention, the technologies taught in the '960 Patent claims were innovative and novel, as evidenced, for example, by the breadth and volume of the references considered during prosecution.

13. Further, the '960 Patent claims improve upon the functioning of a computer system by granting considerable freedom to access digital products under certain usage expectations, thereby minimizing the impact of digital rights management upon authorized users.

14. Certain claims of the '960 Patent require a specific configuration of modules. For example, certain claims of the '960 Patent require "a communication module for receiving a request for authorization to use the digital product from a given device; a processor module in operative communication with the communication module; [and] "a memory module in operative communication with the processor module and comprising executable code . . . ." That executable code itself requires a particular configuration set forth in those claims. At least this example claim language confirms the '960 Patent recites meaningful limitations that are explicitly tied to machines.

15. The '960 Patent claims are not directed to a "method of organizing human activity," "fundamental economic practice long prevalent in our system of commerce," or "a building block of the modern economy." Further, the systems and methods claimed in the '960 Patent were not a

longstanding or fundamental economic practice at the time of patented inventions. Nor do they involve a method of doing business that happens to be implemented on a computer. Nor were they fundamental principles in ubiquitous use on the Internet or computers in general.

16. Instead, as explained above, the '960 Patent claims are directed toward a solution rooted in computer technology and use technology unique to computers and computer networking to overcome a problem specifically arising in the realm of digital products in the Internet age where piracy and unauthorized use is rampant.

17. Because the claims of the '960 Patent are directed to improving the functioning of such computers and computer networks, they cannot be considered abstract ideas. *Enfish, LLC v. Microsoft Corp*., 2015-1244, 2016 WL 2756255, at *8 (Fed. Cir. May 12, 2016).

18. Indeed, the Federal Circuit in *Enfish* reaffirmed that software is a "large field of technological progress" which patents can protect:

> Much of the advancement made in computer technology consists of improvements to software that, by their very nature, may not be defined by particular physical features but rather by logical structures and processes. We do not see in *Bilski* or *Alice*, or our cases, an exclusion to patenting this large field of technological progress.

Id.

19. The '960 Patent does not claim, or attempt to preempt, the performance of an abstract business practice on the Internet or using a conventional computer.

20. The claimed subject matter of the '960 Patent is not a pre-existing but undiscovered algorithm.

21. Publications of the application leading to the '960 patent have been referenced by more than seventy (70) other applications including patent applications by Microsoft; Symantec;

Nokia; and Avaya.

INVENTOR

22. Ric B. Richardson ("Mr. Richardson") is the inventor of the '960 Patent.

23. Mr. Richardson is no stranger to innovation. Mr. Richardson is a well-known Australian inventor who has been inventing since the 1970s. Mr. Richardson currently has more than 130 inventions. Such inventions have been licensed by more than a hundred companies, including, but not limited to Microsoft, IBM, Sony, Electronic Arts, Activision, and Adobe.

24. Mr. Richardson has been featured on national Australian shows such as the "The Big Deal" and "A Done Deal" as a result of such inventions.

25. Mr. Richardson has sought patent protection on some of his inventions and is listed as an inventor on at least a dozen granted patents.

26. Uniloc was founded on one of Mr. Richardson's first United States patents, U.S. Patent No. 5,490,216 (the "'216 Patent"). Mr. Richardson's '216 Patent was involved in prior litigation where a Rhode Island jury awarded Uniloc entities $388 million for infringement by Microsoft Corporation. At the time, this patent verdict was one of the largest in history.

27. Mr. Richardson moved to the United States from Australia and spent nearly a dozen years commercializing his inventions. Mr. Richardson has since returned to Australia and spends his free time mentoring young entrepreneurs on a pro-bono basis. Mr. Richardson continues to develop new inventions to this day.

COUNT I

(INFRINGEMENT OF U.S. PATENT NO. 8,566,960)

28. Uniloc incorporates the preceding paragraphs herein by reference.

29. Uniloc Luxembourg is the owner, by assignment, of the '960 Patent.

30. Uniloc USA is the exclusive licensee of the '960 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.

31. Like Uniloc, Defendant relies upon intellectual property to protect its inventions.

32. The Defendant's 2015 Annual report notes that "our patents, trademarks, trade secrets, copyrights, and other intellectual property rights are important assets for us." Such patent rights are so important to Defendant that it engaged in an acquisition of Motoral Mobility specifically for its patents. By some estimates, Defendant paid $4 Billion for such Motorola Mobility patents. See e.g., https://gigaom.com/2014/01/30/google-paid-4b-for-patents-why-the-motorola-deal-worked-out-just-fine/.

33. Defendant has marketed and currently markets a digital product steaming service under the name "Google Play Music."

34. Defendant provides access to Google Play Music for a fee of $9.99/month. If this fee is not paid or the service is cancelled, the digital product steaming service is discontinued and one may no longer stream the desired digital product.

35. One subscribing to this $9.99/month service is limited to a number of simultaneous streams. Upon information and belief, the $9.99/month service provides a technical or contractual one simultaneous stream.

36. While the $9.99/month service provides a technical or contractual one simultaneous stream, Defendant allows deviations from this based on certain criteria. In particular, when certain criteria have been satisfied, a single account may stream more than the one simultaneous stream.

37. Defendant also has an enhanced service for Google Play Music that provides six simultaneous streams for a fee of $14.99/month.

38. Defendant also has a trial service for Google Play Music that allows access to the digital product for 30 days. After such a trial period, one can continue to access the service for Google Play Music by paying a monthly subscription fee.

39. Upon information and belief, the following describes, at least in part, how Defendant's digital product steaming service works:

Music Products; Music Subscription Content. The Google Play store allows you to browse, preview, stream, purchase, download, recommend and use a variety of digital music and music-related content such as music files, music video files, previews, clips, artist information, user reviews, professional third-party music reviews and other digital content (**"Music Products"**). Certain Music Products may be accessible to you by purchasing (or receiving a free trial of) a subscription to a music subscription service made available via Google Play (**"Music Subscription Content"**). Music Products may be owned by Google or its third-party partners and licensors and may contain watermarks or other embedded data. For clarity, all Music Products constitute "Products" as defined in Section 1 above.

Source: https://play.google.com/about/play-terms.html

Use Google Play Music on multiple devices

You can use Google Play Music to listen to your library on your computer and up to 5 smartphones. You can use up to 10 devices total, including tablets, iPods, etc.

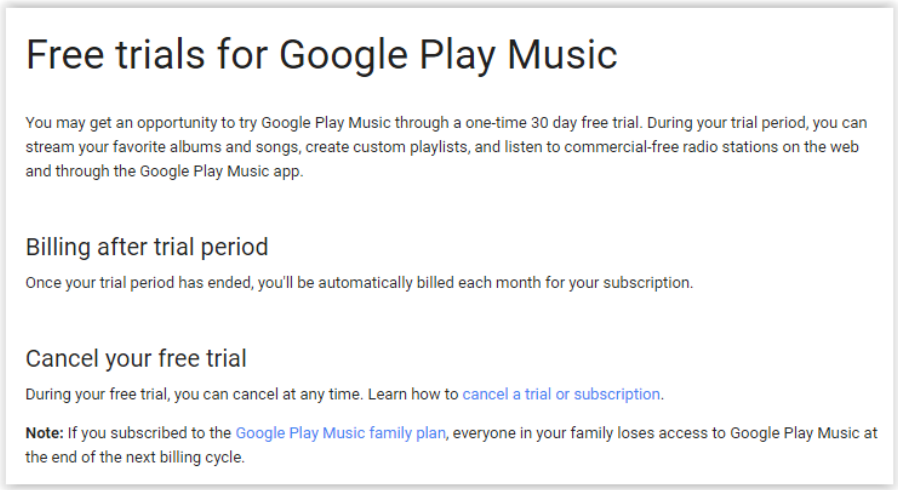
Listen on one device at a time

While you can use multiple devices with the same account, you can only play music using one device at a time.

If you play music on multiple devices at the same time using the same account, your music will be paused so you can choose which device you'd like to use.

Source: https://support.google.com/googleplay/answer/3139562?hl=en

40. Upon information and belief, the following describes, at least in part, how Defendant's digital product steaming service works:



Free trials for Google Play Music

You may get an opportunity to try Google Play Music through a one-time 30 day free trial. During your trial period, you can stream your favorite albums and songs, create custom playlists, and listen to commercial-free radio stations on the web and through the Google Play Music app.

Billing after trial period

Once your trial period has ended, you'll be automatically billed each month for your subscription.

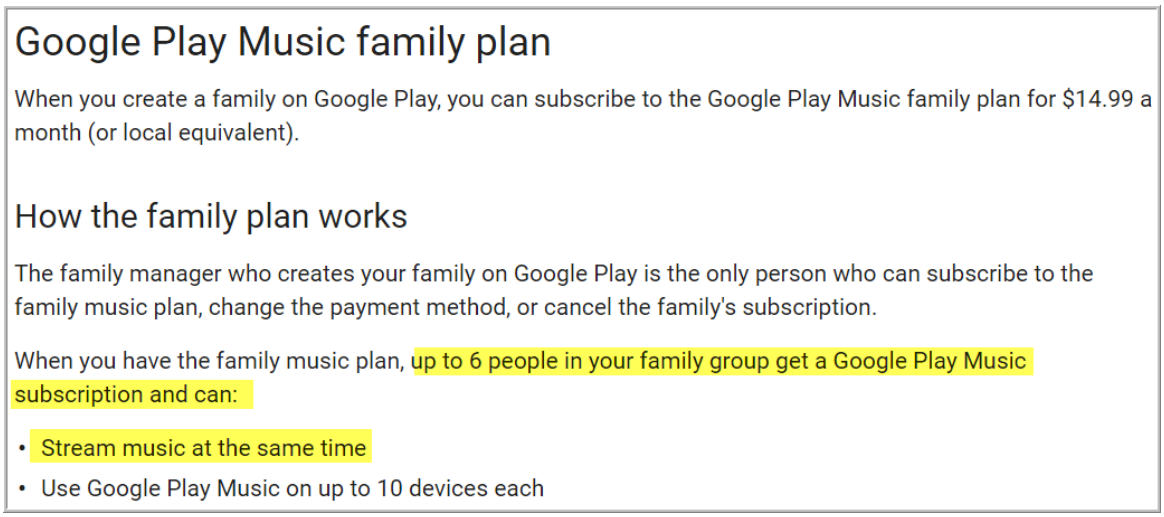
Cancel your free trial

During your free trial, you can cancel at any time. Learn how to cancel a trial or subscription.

Note: If you subscribed to the Google Play Music family plan, everyone in your family loses access to Google Play Music at the end of the next billing cycle.

Source: https://support.google.com/googleplay/answer/3119802?hl=en

41. Upon information and belief, the following describes, at least in part, how Defendan's digital product steaming service works:



Google Play Music family plan

When you create a family on Google Play, you can subscribe to the Google Play Music family plan for $14.99 a month (or local equivalent).

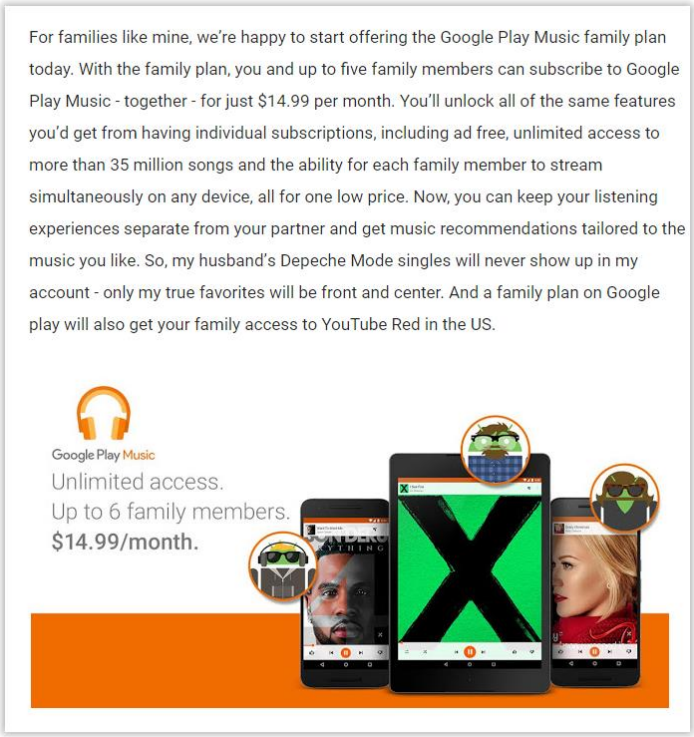
How the family plan works

The family manager who creates your family on Google Play is the only person who can subscribe to the family music plan, change the payment method, or cancel the family's subscription.

When you have the family music plan, up to 6 people in your family group get a Google Play Music subscription and can:

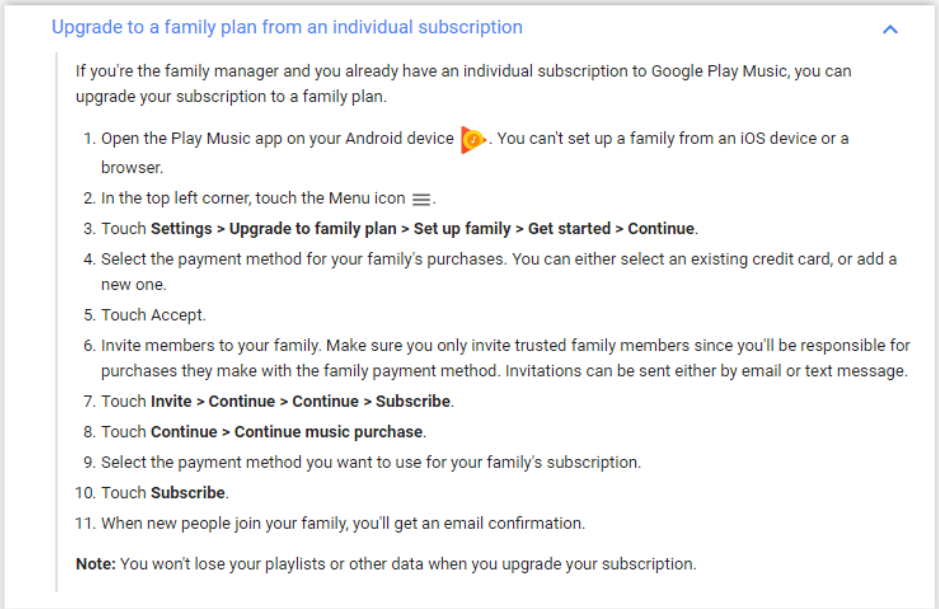
- Stream music at the same time
- Use Google Play Music on up to 10 devices each

Source: https://support.google.com/googleplay/answer/6317786?hl=en



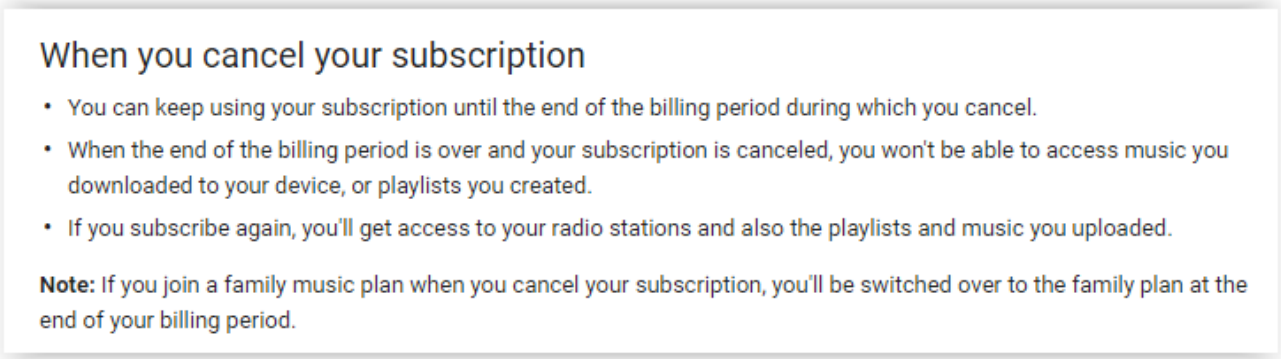
Source: http://officialandroid.blogspot.com/2015/12/google-play-music-now-playing-for-your.html

42. Upon information and belief, the following describes, at least in part, how Defendant's digital product steaming service works:



Source: https://support.google.com/googleplay/answer/6317786?hl=en

43. Upon information and belief, the following describes, at least in part, how Defendant's digital product steaming service works:



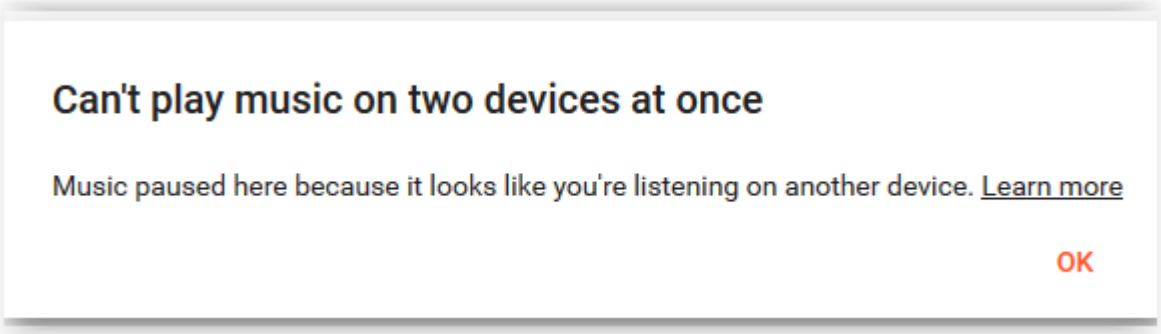
When you cancel your subscription

- You can keep using your subscription until the end of the billing period during which you cancel.
- When the end of the billing period is over and your subscription is canceled, you won't be able to access music you downloaded to your device, or playlists you created.
- If you subscribe again, you'll get access to your radio stations and also the playlists and music you uploaded.

Note: If you join a family music plan when you cancel your subscription, you'll be switched over to the family plan at the end of your billing period.

https://support.google.com/googleplay/answer/3122088?hl=en&ref_topic=3119869

44. Upon information and belief, the following describes, at least in part, how Defendant's digital product steaming service works:



Can't play music on two devices at once

Music paused here because it looks like you're listening on another device. Learn more

OK

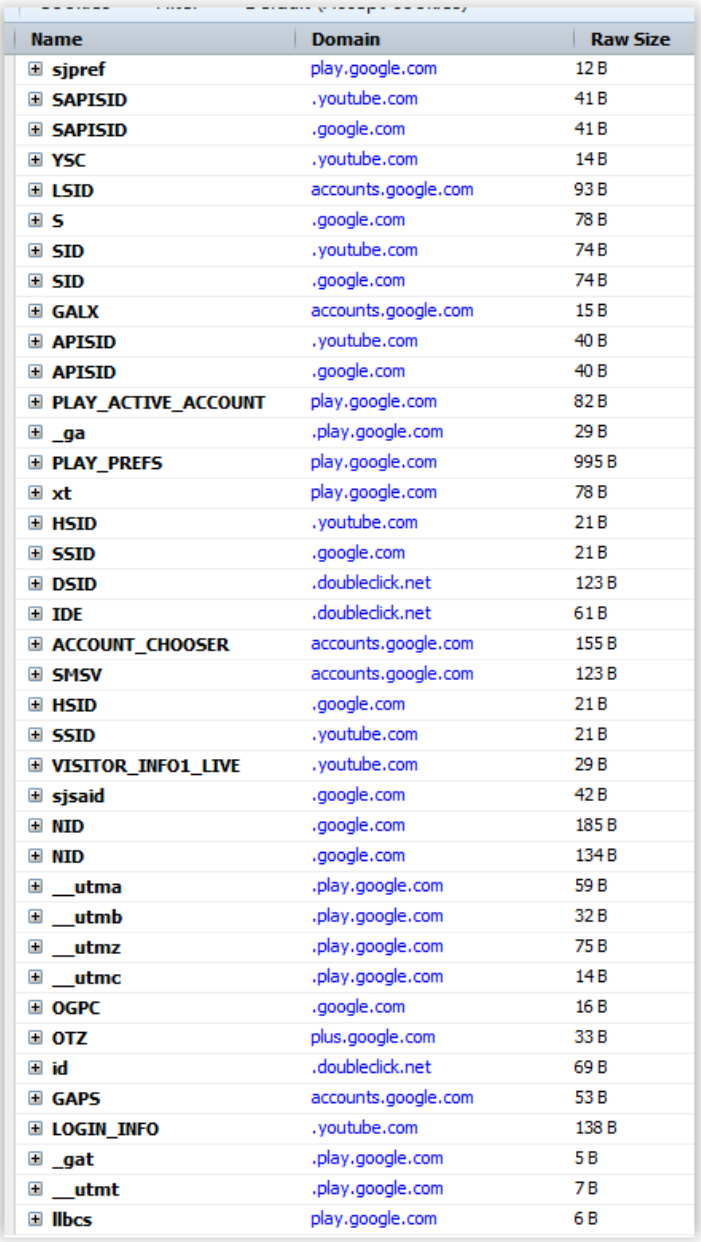
45. Upon information and belief, the following describes, at least in part, how Defendant's digital product steaming service works:

⊞ POST log?format	play.google.com	61 B	216.58.218.174:443
⊞ GET activity;src=	ad.doubleclick.net	42 B	216.58.194.38:443
⊞ GET conversion_	googleadservices.com	3.0 KB	216.58.194.34:443
⊞ GET conversion_	googleadservices.com	3.0 KB	216.58.194.34:443
⊞ GET conversion_	googleadservices.com	3.0 KB	216.58.194.34:443
⊞ POST fetchalbum	play.google.com	3.0 KB	216.58.218.174:443
⊞ GET ?random=14	googleads.g.doubleclick.net	42 B	216.58.194.66:443
⊞ GET ?random=14	googleads.g.doubleclick.net	42 B	216.58.194.66:443
⊞ GET 1HKf4Wbp6I	lh3.googleusercontent.com	3.3 KB	216.58.218.129:443
⊞ GET ani_loading_	play-music.gstatic.com	10.0 KB	216.58.194.99:443
⊞ GET mplay?u=08	play.google.com	1.8 KB	216.58.218.174:443
⊞ GET 1HKf4Wbp6I	lh3.googleusercontent.com	21.2 KB	216.58.218.129:443
⊞ GET ?random=14	googleads.g.doubleclick.net	42 B	216.58.194.66:443
⊞ GET ?fmt=3&nur	google.com	42 B	173.194.219.104:443
⊞ GET ?fmt=3&nur	google.com	42 B	173.194.219.104:443
⊞ GET crossdomain	r11---sn-q4f7snlk.c.doc-0-0-sj.sj.googleusercontent.com	186 B	173.194.57.80:443
⊞ GET ani_equalize	play-music.gstatic.com	2.6 KB	216.58.194.99:443
⊞ GET ?fmt=3&nur	google.com	42 B	173.194.219.104:443

⊞ GET videoplaybac	r11---sn-q4f7snlk.c.doc-0-0-sj.sj.googleusercontent.com	38.8 KB	173.194.57.80:443
⊞ GET videoplaybac	r11---sn-q4f7snlk.c.doc-0-0-sj.sj.googleusercontent.com	79.6 KB	173.194.57.80:443
⊞ GET videoplaybac	r11---sn-q4f7snlk.c.doc-0-0-sj.sj.googleusercontent.com	158.2 KB	173.194.57.80:443
⊞ GET videoplaybac	r11---sn-q4f7snlk.c.doc-0-0-sj.sj.googleusercontent.com	314.3 KB	173.194.57.80:443
⊞ GET videoplaybac	r11---sn-q4f7snlk.c.doc-0-0-sj.sj.googleusercontent.com	587.8 KB	173.194.57.80:443
⊞ GET videoplaybac	r11---sn-q4f7snlk.c.doc-0-0-sj.sj.googleusercontent.com	1.1 MB	173.194.57.80:443
⊞ GET videoplaybac	r11---sn-q4f7snlk.c.doc-0-0-sj.sj.googleusercontent.com	1.1 MB	173.194.57.80:443
⊞ GET videoplaybac	r11---sn-q4f7snlk.c.doc-0-0-sj.sj.googleusercontent.com	1.1 MB	173.194.57.80:443
⊞ GET videoplaybac	r11---sn-q4f7snlk.c.doc-0-0-sj.sj.googleusercontent.com	1.1 MB	173.194.57.80:443
⊞ GET videoplaybac	r11---sn-q4f7snlk.c.doc-0-0-sj.sj.googleusercontent.com	1.1 MB	173.194.57.80:443
⊞ GET videoplaybac	r11---sn-q4f7snlk.c.doc-0-0-sj.sj.googleusercontent.com	1.1 MB	173.194.57.80:443
⊞ GET videoplaybac	r11---sn-q4f7snlk.c.doc-0-0-sj.sj.googleusercontent.com	977.6 KB	173.194.57.80:443
⊞ POST log?format:	play.google.com	35 B	216.58.218.174:443
⊞ POST getsituatio	play.google.com	41.6 KB	216.58.218.174:443
⊞ GET 13W-bm3sNr	lh3.googleusercontent.com	109.4 KB	216.58.218.129:443
⊞ GET k8npGoZtGlR	lh3.googleusercontent.com	35.7 KB	216.58.218.129:443
⊞ GET x306YCnJVDI	lh3.googleusercontent.com	114.7 KB	216.58.218.129:443
⊞ GET qz3D9NdSqR	lh3.googleusercontent.com	19.6 KB	216.58.218.129:443

46. Upon information and belief, Defendant uses at least the following for its servers: Playlog, fife, sffe, GSE, and vgs 1.0.

47. Upon information and belief, the following describes, at least in part, how Defendant's digital product steaming service works:



Name	Domain	Raw Size
sjpref	play.google.com	12 B
SAPISID	.youtube.com	41 B
SAPISID	.google.com	41 B
YSC	.youtube.com	14 B
LSID	accounts.google.com	93 B
S	.google.com	78 B
SID	.youtube.com	74 B
SID	.google.com	74 B
GALX	accounts.google.com	15 B
APISID	.youtube.com	40 B
APISID	.google.com	40 B
PLAY_ACTIVE_ACCOUNT	play.google.com	82 B
_ga	.play.google.com	29 B
PLAY_PREFS	play.google.com	995 B
xt	play.google.com	78 B
HSID	.youtube.com	21 B
SSID	.google.com	21 B
DSID	.doubleclick.net	123 B
IDE	.doubleclick.net	61 B
ACCOUNT_CHOOSER	accounts.google.com	155 B
SMSV	accounts.google.com	123 B
HSID	.google.com	21 B
SSID	.youtube.com	21 B
VISITOR_INFO1_LIVE	.youtube.com	29 B
sjsaid	.google.com	42 B
NID	.google.com	185 B
NID	.google.com	134 B
__utma	.play.google.com	59 B
__utmb	.play.google.com	32 B
__utmz	.play.google.com	75 B
__utmc	.play.google.com	14 B
OGPC	.google.com	16 B
OTZ	plus.google.com	33 B
id	.doubleclick.net	69 B
GAPS	accounts.google.com	53 B
LOGIN_INFO	.youtube.com	138 B
_gat	.play.google.com	5 B
__utmt	.play.google.com	7 B
llbcs	play.google.com	6 B

48. Defendant has directly infringed, and continue to directly infringe one or more claims of the ‘960 Patent in this judicial district and elsewhere in Texas, including at least Claims 1-5, 7-8, 18, 22, and 25 literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling its digital product steaming service during the pendency of the ‘960 Patent which *inter alia* comprises instructions for allowing a digital product

to be used when a device identify is on record, calculating device count authorized for use with the digital product, setting a limit for a time period when a device identity is not on record, and allowing the digital product to be used when the device count is less than the limit.

49. In addition, should Defendant's digital product steaming service be found to not literally infringe the asserted claims of the '960 Patent, Defendant's accused products would nevertheless infringe the asserted claims of the '960 Patent. More specifically, the accused digital product steaming service performs substantially the same function (adjusting access to a digital product), in substantially the same way (comprising computer readable instructions contained in or loaded into non-transitory memory) to yield substantially the same result (effecting time-limited access to the digital product). Defendant would thus be liable for direct infringement under the doctrine of equivalents.

50. Defendant may have infringed the '960 Patent through other software, currently unknown to Uniloc, utilizing the same or reasonably similar functionality, including other versions of its digital product steaming service. Uniloc reserves the right to discover and pursue all such additional infringing software.

51. Uniloc has been damaged, reparably and irreparably, by Defendant's infringement of the '960 Patent and such damage will continue unless and until Defendant is enjoined.

52. Uniloc has entered into a Patent License, Release and Settlement Agreement with Flexera Software LLC ("Flexera"). Uniloc is not alleging infringement of the '960 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., Acresso 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 Acresso 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.

JURY DEMAND

53. Uniloc hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

Uniloc requests that the Court find in its favor and against Defendant, and that the Court grant Uniloc the following relief:

(A) that Defendant has infringed the '960 Patent;

(B) awarding Uniloc its damages suffered as a result of Defendant's infringement of the '960 Patent pursuant to 35 U.S.C. § 284;

(C) enjoining Defendant, 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 '960 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.

Dated: May 30, 2016

Respectfully submitted,

/s/ James L. Etheridge

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Ryan S. Loveless
Texas State Bar No. 24036997
Brett A. Mangrum
Texas State Bar No. 24065671
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Counsel for Plaintiffs Uniloc USA, Inc. and Uniloc Luxembourg S.A.