

**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-777
Plaintiffs,	§	
	§	
v.	§	PATENT CASE
	§	
AVAYA INC.,	§	
	§	
Defendant.	§	JURY TRIAL DEMANDED
	§	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs, Uniloc USA, Inc. and Uniloc Luxembourg, S.A. (together “Uniloc”), as and for their First Amended Complaint against defendant, Avaya Inc. (“Avaya”), 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 Luxembourg owns a number of patents in the field of text/voice instant messaging.

4. Upon information and belief, Avaya is a Delaware corporation having a principal place of business at 4655 Great America Parkway, Santa Clara, California 95054 and does business in Texas at 1111 Freeport Parkway, Coppell, Texas 75019 and in the judicial Eastern

District of Texas. Avaya may be served with process through its registered agent in Texas: CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

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, Avaya 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. Avaya 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 at 1111 Freeport Parkway, Coppell, Texas 75019 and (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. 7,535,890)

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

9. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 7,535,890 ("the '890 Patent"), entitled SYSTEM AND METHOD FOR INSTANT VOIP MESSAGING that issued on May 19, 2009. A true and correct copy of the '890 Patent is attached as Exhibit A hereto.

10. Uniloc USA is the exclusive licensee of the '890 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, Avaya's Multimedia Messaging platform:



Avaya Multimedia Messaging

Keep business moving - short text, video, and audio messages efficiently beat the time trap of email and unnecessary phone calls

12. Upon information and belief, the following describes, at least in part, the key benefits of Avaya's Multimedia Messaging platform:

Key Benefits

Rich user experience: Your choice of media, text, voice, video, files and attachments. One click escalates an IM to a call.

13. Upon information and belief, the following describes, at least in part, how Avaya's Multimedia Messaging platform works:

Avaya Multimedia Messaging provides advanced multiparty instant messaging (IM) and rich media exchange capabilities to Avaya Unified Communications (UC) applications. Avaya Multimedia Messaging functionality is available on Avaya Communicator for iOS, Windows, Android, and iPhone.

When Avaya Multimedia Messaging is enabled on a supported application, you can

- Exchange text-based instant messages with users of Avaya Multimedia Messaging and Avaya Aura® Presence Services.
- Receive photo, audio, video, and generic file attachments.
- With Avaya Communicator for Windows, all users can send generic file attachments, but only users with enhanced privileges can capture photo, audio, and video files on Avaya Multimedia Messaging. With mobile clients, only users with enhanced privileges can send attachments in an IM conversation.
- View and participate in active conversations from multiple devices.

You can view an active conversation from applications that use Avaya Aura® Presence Services, even if the application does not have Avaya Multimedia Messaging enabled. When viewing a conversation in an application without Avaya Multimedia Messaging, you can use the provided message playback URL to view attachments.

- Search for archived or inactive conversations in the application History fan.

Avaya Multimedia Messaging has its own server that must reside on a Linux based server. VMware options for the Avaya Multimedia Messaging server are also available.

14. Upon information and belief, the following describes, at least in part, Avaya's Multimedia Messaging platform:



15. Upon information and belief, the following is, at least in part, an overview of Avaya's Multimedia Messaging platform:

Avaya Multimedia Messaging overview

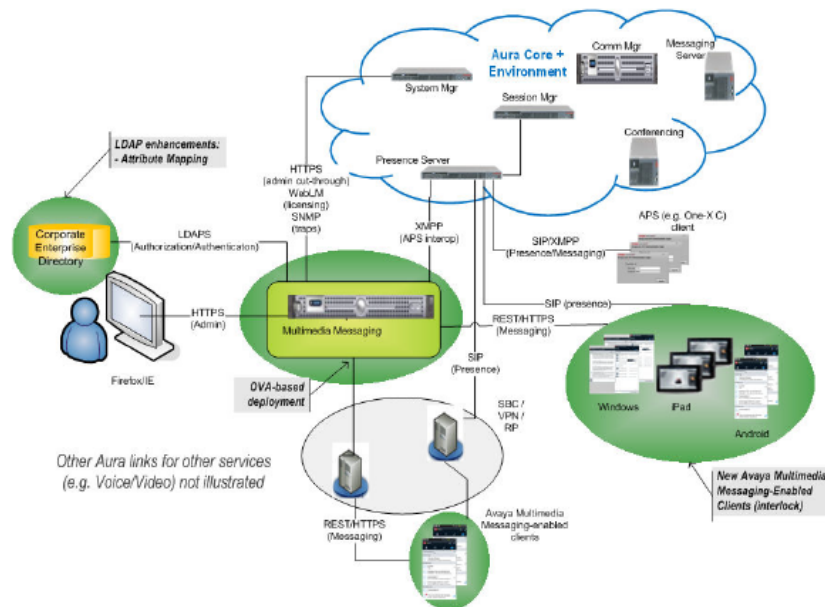
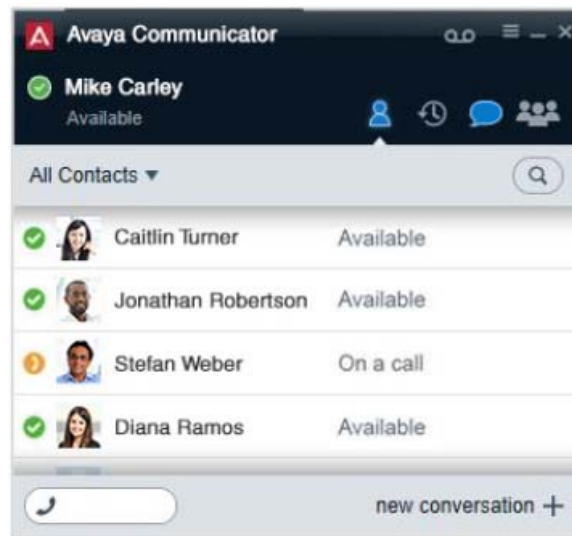
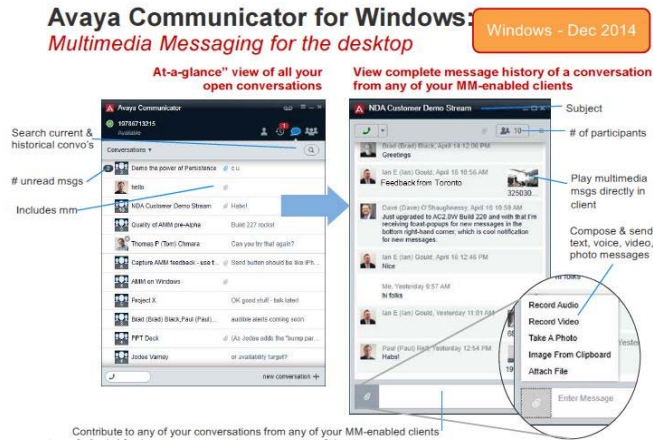


Figure 1: Avaya Multimedia Messaging deployment architecture

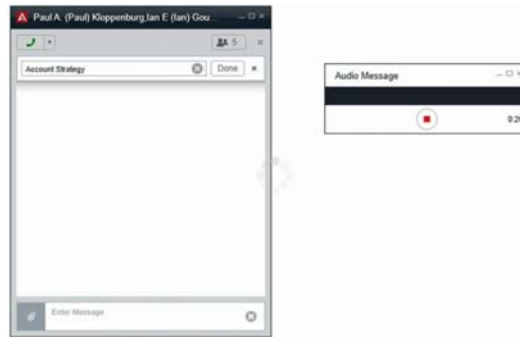
16. Upon information and belief, the following describes, at least in part, how Avaya’s Multimedia Messaging platform works:



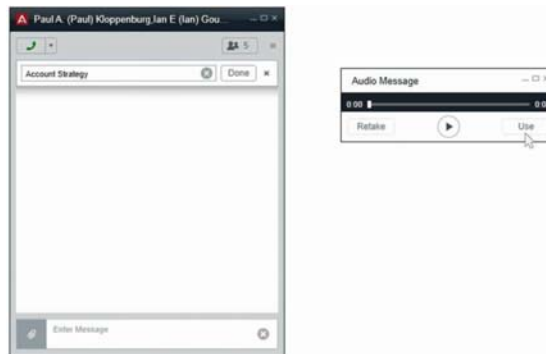
17. Upon information and belief, the following describes, at least in part, how Avaya’s Multimedia Messaging platform works:



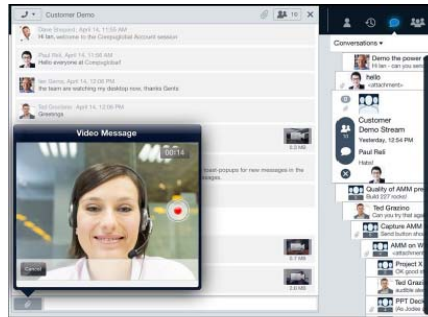
18. Upon information and belief, the following describes, at least in part, how Avaya’s Multimedia Messaging platform works:



19. Upon information and belief, the following describes, at least in part, how Avaya’s Multimedia Messaging platform works:

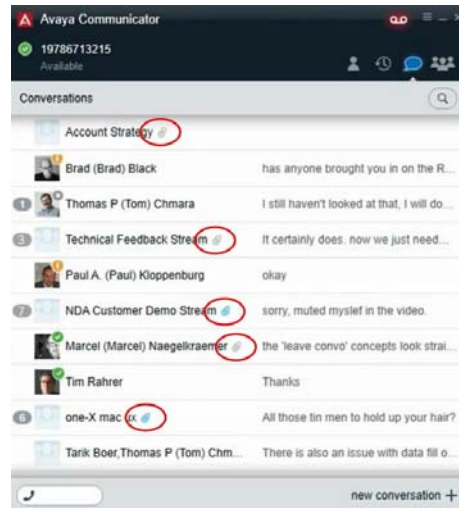


20. Upon information and belief, the following describes, at least in part, how Avaya’s Multimedia Messaging platform works:



Avaya Communicator for iPad with Multimedia Messaging

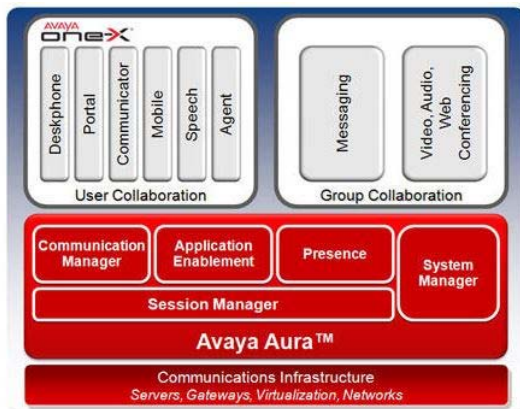
21. Upon information and belief, the following describes, at least in part, how Avaya’s Multimedia Messaging platform works:



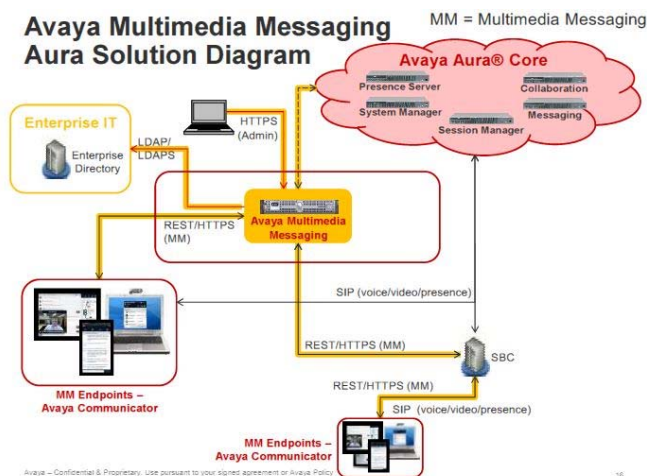
22. Upon information and belief, the following describes, at least in part, Avaya’s Multimedia Messaging platform:



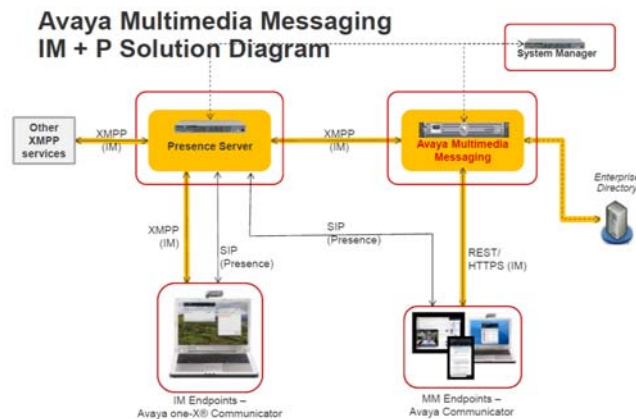
23. Upon information and belief, the following describes, at least in part, Avaya's Multimedia Messaging platform:



24. Upon information and belief, the following describes, at least in part, how Avaya's Multimedia Messaging platform works:



25. Upon information and belief, the following describes, at least in part, Avaya's Multimedia Messaging platform:



26. Avaya has directly infringed, and continues to directly infringe one or more claims of the '890 Patent in this judicial district and elsewhere in Texas, including at least Claims 1, 3-6, 9, 14, 17-20, 23, 28-29, 31-33, 37, 40-43, 46, 51-54, 57, 62-65 and 68 literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling the Multimedia Messaging platform, including for use with Avaya apps, Unified Communications software such as the Avaya Aura Suites, Core, Power, Foundation, Mobility Solutions, Collaboration and Communicator during the pendency of the '890 Patent which software and associated Avaya servers perform instant voice messaging over Wi-Fi and the Internet between persons using cellphones and/or other devices capable of instant voice messaging wherein the instant messages are temporarily stored if an intended message recipient is unavailable and thereafter delivered once the intend recipient becomes available.

27. In addition, should the Multimedia Messaging platform be found to not literally infringe the asserted claims of the '890 Patent, the Multimedia Messaging platform would nevertheless infringe the asserted claims of the '890 Patent. More specifically, the Multimedia Messaging platform performs substantially the same function (instant voice messaging), in substantially the same way (via a client/server environment), to yield substantially the same

result (delivering voice messages to available intended recipients). Avaya would thus be liable for direct infringement under the doctrine of equivalents.

28. Avaya has indirectly infringed and continues to indirectly infringe at least Claims 1, 3-6, 9, 14, 17-20, 23, 28-29, 31-33, 37, 40-43, 46, 51-54, 57, 62-65 and 68 of the '890 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 Multimedia Messaging platform. Avaya's customers who purchase systems and components thereof and operate such systems and components in accordance with Avaya's instructions directly infringe one or more of the forgoing claims of the '890 Patent in violation of 35 U.S.C. § 271. Avaya directly and indirectly instructs its customers through live and web demonstrations, training videos, brochures and administration, maintenance, installation and user guides, such as those located at the following:

https://www.avaya.com/usa/documents/avaya-aura-suite-licensing-uc7218_feb2015.pdf

<https://downloads.avaya.com/css/P8/documents/100180613>

<http://downloads.avaya.com/css/P8/documents/101011990>

<http://www.avaya.com/usa/documents/avaya-multimedia-messaging-uc7657.pdf>

<http://downloads.avaya.com/css/P8/documents/101004734>

<http://www.avaya.com/usa/documents/avaya-multimedia-messaging-uc7657.pdf>

<https://downloads.avaya.com/css/P8/documents/100180613>

https://www.youtube.com/watch?v=_G7YhmZaWvA

www.youtube.com

Avaya is thereby liable for infringement of the '890 Patent under 35 U.S.C. § 271(b).

29. Avaya has indirectly infringed and continues to indirectly infringe at least Claims 1, 3-6, 9, 14, 17-20, 23, 28-29, 31-33, 37, 40-43, 46, 51-54, 57, 62-65 and 68 of the '890 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 of its Multimedia Messaging platform, 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 '890 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

30. For example, the Multimedia Messaging platform that allows Avaya's customers to instant voice message is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patent process. Furthermore, the Multimedia Messaging platform 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. Avaya is, therefore, liable for infringement under 35 U.S.C. § 271(c).

31. Avaya will have been on notice of the '890 Patent since, at the latest, the service of this complaint upon Avaya. By the time of trial, Avaya 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, 3-6, 9, 14, 17-20, 23, 28-29, 31-33, 37, 40-43, 46, 51-54, 57, 62-65 and 68 of the '890 Patent.

32. Uniloc has been damaged, reparably and irreparably, by Avaya's infringement of the '890 Patent and such damage will continue unless and until Avaya is enjoined.

COUNT II
(INFRINGEMENT OF U.S. PATENT NO. 8,995,433)

33. Uniloc incorporates paragraphs 1-32 above by reference.

34. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 8,995,433 (“the ’433 Patent”), entitled SYSTEM AND METHOD FOR INSTANT VOIP MESSAGING that issued on March 31, 2015. A true and correct copy of the ’433 Patent is attached as Exhibit B hereto.

35. Uniloc USA is the exclusive licensee of the ’433 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.

36. Avaya has directly infringed, and continues to directly infringe one or more claims of the ’433 Patent in this judicial district and elsewhere in Texas, including at least Claims 1-5, 7-12, 14-17 and 25-26 literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling the Multimedia Messaging platform, including for use with Avaya apps, Unified Communications software such as the Avaya Aura Suites, Core, Power, Foundation, Mobility Solutions, Collaboration and Communicator during the pendency of the ’433 Patent which software and associated Avaya servers perform instant voice messaging over Wi-Fi and the Internet between persons using cellphones and/or other devices capable of instant voice messaging wherein the instant messages are temporarily stored if an intended message recipient is unavailable and thereafter delivered once the intend recipient becomes available.

37. In addition, should the Multimedia Messaging platform be found to not literally infringe the asserted claims of the ’433 Patent, the Multimedia Messaging platform would nevertheless infringe the asserted claims of the ’433 Patent. More specifically, the Multimedia Messaging platform performs substantially the same function (instant voice messaging), in substantially the same way (via a client/server environment), to yield substantially the same

result (delivering voice messages to available intended recipients). Avaya would thus be liable for direct infringement under the doctrine of equivalents.

38. Avaya has indirectly infringed and continues to indirectly infringe at least Claims 1-5, 7-12, 14-17 and 25-26 of the '433 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 Multimedia Messaging platform. Avaya's customers who purchase systems and components thereof and operate such systems and components in accordance with Avaya's instructions directly infringe one or more of the forgoing claims of the '433 Patent in violation of 35 U.S.C. § 271. Avaya directly and indirectly instructs its customers through live and web demonstrations, training videos, brochures and administration, maintenance, installation and user guides, such as those located at the following:

https://www.avaya.com/usa/documents/avaya-aura-suite-licensing-uc7218_feb2015.pdf

<https://downloads.avaya.com/css/P8/documents/100180613>

<http://downloads.avaya.com/css/P8/documents/101011990>

<http://www.avaya.com/usa/documents/avaya-multimedia-messaging-uc7657.pdf>

<http://downloads.avaya.com/css/P8/documents/101004734>

<http://www.avaya.com/usa/documents/avaya-multimedia-messaging-uc7657.pdf>

<https://downloads.avaya.com/css/P8/documents/100180613>

https://www.youtube.com/watch?v=_G7YhmZaWvA

www.youtube.com

Avaya is thereby liable for infringement of the '433 Patent under 35 U.S.C. § 271(b).

39. Avaya has indirectly infringed and continues to indirectly infringe at least Claims 1-5, 7-12, 14-17 and 25-26 of the '433 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 of the Multimedia Messaging platform, 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 '433 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

40. For example, the Multimedia Messaging platform that allows Avaya's customers to instant voice message is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patent process. Furthermore, the Multimedia Messaging platform 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. Avaya is, therefore, liable for infringement under 35 U.S.C. § 271(c).

41. Avaya will have been on notice of the '433 Patent since, at the latest, the service of this complaint upon Avaya. By the time of trial, Avaya 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, 7-12, 14-17 and 25-26 of the '433 Patent.

42. Uniloc has been damaged, reparably and irreparably, by Avaya's infringement of the '433 Patent and such damage will continue unless and until Avaya is enjoined.

COUNT III
(INFRINGEMENT OF U.S. PATENT NO. 8,724,622)

43. Uniloc incorporates paragraphs 1-42 above by reference.

44. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 8,724,622 ("the '622 Patent"), entitled SYSTEM AND METHOD FOR INSTANT VOIP MESSAGING

that issued on May 13, 2014. A true and correct copy of the '622 Patent is attached as Exhibit C hereto.

45. Uniloc USA is the exclusive licensee of the '622 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.

46. Avaya has directly infringed, and continues to directly infringe one or more claims of the '622 Patent in this judicial district and elsewhere in Texas, including at least Claims 3, 6-8, 10-19 and 21-23 literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling the Multimedia Messaging platform, including for use with Avaya apps, Unified Communications software such as the Avaya Aura Suites, Core, Power, Foundation, Mobility Solutions, Collaboration and Communicator during the pendency of the '622 Patent which software and associated Avaya servers perform instant voice messaging over Wi-Fi and the Internet between persons using cellphones and/or other devices capable of instant voice messaging wherein the instant messages are temporarily stored if an intended message recipient is unavailable and thereafter delivered once the intend recipient becomes available.

47. In addition, should the Multimedia Messaging platform be found to not literally infringe the asserted claims of the '622 Patent, the Multimedia Messaging platform would nevertheless infringe the asserted claims of the '622 Patent. More specifically, the Multimedia Messaging platform performs substantially the same function (instant voice messaging), in substantially the same way (via a client/server environment), to yield substantially the same result (delivering voice messages to available intended recipients). Avaya would thus be liable for direct infringement under the doctrine of equivalents.

48. Avaya has indirectly infringed and continues to indirectly infringe at least Claims 3, 6-8, 10-19 and 21-23 of the '622 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 Multimedia Messaging platform. Avaya's customers who purchase systems and components thereof and operate such systems and components in accordance with Avaya's instructions directly infringe one or more of the forgoing claims of the '622 Patent in violation of 35 U.S.C. § 271. Avaya directly and indirectly instructs its customers through live and web demonstrations, training videos, brochures and administration, maintenance, installation and user guides, such as those located at the following:

https://www.avaya.com/usa/documents/avaya-aura-suite-licensing-uc7218_feb2015.pdf

<https://downloads.avaya.com/css/P8/documents/100180613>

<http://downloads.avaya.com/css/P8/documents/101011990>

<http://www.avaya.com/usa/documents/avaya-multimedia-messaging-uc7657.pdf>

<http://downloads.avaya.com/css/P8/documents/101004734>

<http://www.avaya.com/usa/documents/avaya-multimedia-messaging-uc7657.pdf>

<https://downloads.avaya.com/css/P8/documents/100180613>

https://www.youtube.com/watch?v=_G7YhmZaWvA

www.youtube.com

Avaya is thereby liable for infringement of the '622 Patent under 35 U.S.C. § 271(b).

49. Avaya has indirectly infringed and continues to indirectly infringe at least Claims 3, 6-8, 10-19 and 21-23 of the '622 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 of its Multimedia Messaging platform, 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 '622 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

50. For example, the Multimedia Messaging platform that allows Avaya's customers to instant voice message is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patent process. Furthermore, the software module 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. Avaya is, therefore, liable for infringement under 35 U.S.C. § 271(c).

51. Avaya will have been on notice of the '622 Patent since, at the latest, the service of this complaint upon Avaya. By the time of trial, Avaya 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 3, 6-8, 10-19 and 21-23 of the '622 Patent.

52. Uniloc has been damaged, reparably and irreparably, by Avaya's infringement of the '622 Patent and such damage will continue unless and until Avaya is enjoined.

COUNT IV
(INFRINGEMENT OF U.S. PATENT NO. 8,243,723)

53. Uniloc incorporates paragraphs 1-52 above by reference.

54. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 8,243,723 ("the '723 Patent"), entitled SYSTEM AND METHOD FOR INSTANT VOIP MESSAGING that issued on August 14, 2014. A true and correct copy of the '723 Patent is attached as Exhibit D hereto.

55. Uniloc USA is the exclusive licensee of the '723 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.

56. Avaya has directly infringed, and continues to directly infringe one or more claims of the '723 Patent in this judicial district and elsewhere in Texas, including at least Claims 1-3 literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling the Multimedia Messaging platform, including for use with Avaya apps, Unified Communications software such as the Avaya Aura Suites, Core, Power, Foundation, Mobility Solutions, Collaboration and Communicator during the pendency of the '723 Patent which software and associated Avaya servers perform instant voice messaging over Wi-Fi and the Internet between persons using cellphones and/or other devices capable of instant voice messaging wherein the instant messages are temporarily stored if an intended message recipient is unavailable and thereafter delivered once the intend recipient becomes available.

57. In addition, should the Multimedia Messaging platform be found to not literally infringe the asserted claims of the '723 Patent, the Multimedia Messaging platform would nevertheless infringe the asserted claims of the '723 Patent. More specifically, the Multimedia Messaging platform performs substantially the same function (instant voice messaging), in substantially the same way (via a client/server environment), to yield substantially the same result (delivering voice messages to available intended recipients). Avaya would thus be liable for direct infringement under the doctrine of equivalents.

58. Avaya has indirectly infringed and continues to indirectly infringe at least Claims 1-3 of the '723 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 Multimedia Messaging platform. Avaya's customers who purchase systems and components thereof and operate such systems and components in accordance with Avaya's instructions directly infringe one or more of the forgoing claims of the '723 Patent in violation of 35 U.S.C. § 271. Avaya directly and indirectly instructs its customers through live and web demonstrations, training videos, brochures and administration, maintenance, installation and user guides, such as those located at the following:

https://www.avaya.com/usa/documents/avaya-aura-suite-licensing-uc7218_feb2015.pdf

<https://downloads.avaya.com/css/P8/documents/100180613>

<http://downloads.avaya.com/css/P8/documents/101011990>

<http://www.avaya.com/usa/documents/avaya-multimedia-messaging-uc7657.pdf>

<http://downloads.avaya.com/css/P8/documents/101004734>

<http://www.avaya.com/usa/documents/avaya-multimedia-messaging-uc7657.pdf>

<https://downloads.avaya.com/css/P8/documents/100180613>

https://www.youtube.com/watch?v=_G7YhmZaWvA

www.youtube.com

Avaya is thereby liable for infringement of the '723 Patent under 35 U.S.C. § 271(b).

59. Avaya has indirectly infringed and continues to indirectly infringe at least Claims 1-3 of the '723 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 of the Multimedia Messaging platform, 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 '723 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

60. For example, the Multimedia Messaging platform that allows its enterprise clients to instant voice message is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patent process. Furthermore, the software module 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. Avaya is, therefore, liable for infringement under 35 U.S.C. § 271(c).

61. Avaya will have been on notice of the '723 Patent since, at the latest, the service of this complaint upon Avaya. By the time of trial, Avaya 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 1-3 of the '723 Patent.

62. Uniloc has been damaged, reparably and irreparably, by Avaya's infringement of the '723 Patent and such damage will continue unless and until Avaya is enjoined.

COUNT V
(INFRINGEMENT OF U.S. PATENT NO. 8,199,747)

63. Uniloc incorporates paragraphs 1-66 above by reference.

64. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 8,199,747 ("the '747 Patent"), entitled SYSTEM AND METHOD FOR INSTANT VOIP MESSAGING that issued on June 12, 2012. A true and correct copy of the '747 Patent is attached as Exhibit E hereto.

65. Uniloc USA is the exclusive licensee of the '747 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.

66. Avaya has directly infringed, and continues to directly infringe one or more claims of the '747 Patent in this judicial district and elsewhere in Texas, including at least Claims 1-3 literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling the Multimedia Messaging platform, including for use with Avaya apps, Unified Communications software such as the Avaya Aura Suites, Core, Power, Foundation, Mobility Solutions, Collaboration and Communicator during the pendency of the '747 Patent which software and associated Avaya servers perform instant voice messaging over Wi-Fi and the Internet between persons using cellphones and/or other devices capable of instant voice messaging wherein the instant messages are temporarily stored if an intended message recipient is unavailable and thereafter delivered once the intend recipient becomes available.

67. In addition, should the Multimedia Messaging platform be found to not literally infringe the asserted claims of the '747 Patent, the Multimedia Messaging platform would nevertheless infringe the asserted claims of the '747 Patent. More specifically, the Multimedia Messaging platform performs substantially the same function (instant voice messaging), in substantially the same way (via a client/server environment), to yield substantially the same result (delivering voice messages to available intended recipients). Avaya would thus be liable for direct infringement under the doctrine of equivalents.

68. Avaya has indirectly infringed and continues to indirectly infringe at least Claims 1-3 of the '747 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 Multimedia Messaging platform. Avaya's customers who purchase systems and components thereof and operate such systems and components in accordance with Avaya's instructions directly infringe one or more of the forgoing claims of the '747 Patent in violation of 35 U.S.C. § 271. Avaya directly and indirectly instructs its customers through live and web demonstrations, training videos, brochures and administration, maintenance, installation and user guides, such as those located at the following:

https://www.avaya.com/usa/documents/avaya-aura-suite-licensing-uc7218_feb2015.pdf

<https://downloads.avaya.com/css/P8/documents/100180613>

<http://downloads.avaya.com/css/P8/documents/101011990>

<http://www.avaya.com/usa/documents/avaya-multimedia-messaging-uc7657.pdf>

<http://downloads.avaya.com/css/P8/documents/101004734>

<http://www.avaya.com/usa/documents/avaya-multimedia-messaging-uc7657.pdf>

<https://downloads.avaya.com/css/P8/documents/100180613>

https://www.youtube.com/watch?v=_G7YhmZaWvA

www.youtube.com

Avaya is thereby liable for infringement of the '747 Patent under 35 U.S.C. § 271(b).

69. Avaya has indirectly infringed and continues to indirectly infringe at least Claims 1-3 of the '747 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 of the Multimedia Messaging platform, 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 '747 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

70. For example, the Multimedia Messaging platform that allows its enterprise clients to instant voice message is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patent process. Furthermore, the Multimedia Messaging platform 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. Avaya is, therefore, liable for infringement under 35 U.S.C. § 271(c).

71. Avaya will have been on notice of the '747 Patent since, at the latest, the service of this complaint upon Avaya. By the time of trial, Avaya 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 1-3 of the '747 Patent.

72. Uniloc has been damaged, reparably and irreparably, by Avaya's infringement of the '747 Patent and such damage will continue unless and until Avaya is enjoined.

PRAYER FOR RELIEF

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

(A) that Avaya has infringed the '890 Patent, the '433 Patent, the '622 Patent, the '723 Patent and the '747 Patent;

(B) awarding Uniloc its damages suffered as a result of Avaya's infringement of the '890 Patent, the '433 Patent, the '622 Patent, the '723 Patent and the '747 Patent pursuant to 35 U.S.C. § 284;

(C) enjoining Avaya, 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 '890 Patent, the '433 Patent, the '622 Patent, the '723 Patent and the '747 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: July 15, 2016

Respectfully submitted,

/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

Kevin Gannon

CESARI AND MCKENNA, LLP

88 Black Falcon Ave

Suite 271

Boston, MA 02110

Telephone: (617) 951-2500

Facsimile: (617) 951-3927

Email: pjh@c-m.com

Email: kgannon@c-m.com

ATTORNEYS FOR THE PLAINTIFFS