

**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. 2:17-cv-00469
	§	
Plaintiffs,	§	
	§	
v.	§	PATENT CASE
	§	
APPLE INC.,	§	
	§	
Defendant.	§	JURY TRIAL DEMANDED
	§	

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs, Uniloc USA, Inc. and Uniloc Luxembourg, S.A. (together “Uniloc”), as and for their First Amended Complaint against defendant, Apple Inc. (“Apple”), 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. Upon information and belief, Apple is a California corporation having a principal place of business in Cupertino, California and regular and established places of business at 2601 Preston Road, Frisco, Texas and 6121 West Park Boulevard, Plano, Texas as well as other locations in Texas. Apple offers its products and/or services, including those accused herein of

infringement, to customers and potential customers located in Texas, including in the judicial Eastern District of Texas. Apple may be served with process through its registered agent for service in Texas: CT Corporation System, 1999 Bryant Street, Suite 900, Dallas, Texas 75201.

JURISDICTION AND VENUE

4. 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.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1400(b). Apple has committed acts of infringement in this judicial district, and has regular and established places of business in this judicial district, as set forth above.

COUNT I
(INFRINGEMENT OF U.S. PATENT NO. 8,872,646)

6. Uniloc incorporates paragraphs 1-5 above by reference.

7. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 8,872,646 (“the ’646 Patent”), entitled METHOD AND SYSTEM FOR WAKING UP A DEVICE DUE TO MOTION that issued on October 28, 2014. A true and correct copy of the ’646 Patent is attached as Exhibit A hereto.

8. Uniloc USA is the exclusive licensee of the ’646 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.

9. Apple manufactures, uses, sells, offers for sale and/or imports into the United States electronic devices such as iPhones (including versions SE, 6s, 6s+, 7, 7+ and 7 Red) and Watches that incorporate hardware (such as accelerometers, altimeters, gyroscopes and M9/M10 motion

detecting coprocessors/S2 SiPs) and software (including iOS10.0.x and watchOS versions) that provide a Raise to Wake functionality to the devices (together “Accused Infringing Devices”).

10. Apple has directly infringed, and continues to directly infringe, one or more claims of the '646 Patent in the United States during the pendency of the '646 Patent, including at least claims 1-18 and 20-22, literally and/or under the doctrine of equivalents, by or through making, using, offering for sale, selling and/or importing the Accused Infringing Devices.

11. In addition, should the accused devices be found to not literally infringe the asserted claims of the '646 Patent, the Accused Infringing Devices would nevertheless infringe the asserted claims of the '646 Patent. More specifically, the Accused Infringing Devices perform substantially the same function (waking up a device using motion detecting components such as accelerometers, altimeters, gyroscopes, M9/M10 coprocessors and associated software), in substantially the same way (using dominant axis gravity-related data), to yield substantially the same result (a device woken up by detected motion). Apple would thus be liable for direct infringement under the doctrine of equivalents.

12. Apple has indirectly infringed and continues to indirectly infringe at least claims 1-18 and 20-22 of the '646 Patent in the United States by, among other things, actively inducing the using, offering for sale, selling and/or importing the Accused Infringing Devices. Apple's customers who use such devices in accordance with Apple's instructions directly infringe claims 1-18 and 20-22 of the '646 Patent in violation of 35 U.S.C. § 271. Apple directly and/or indirectly intentionally instructs its customers to infringe through training videos, demonstrations, brochures, installation and/or user guides such as those located at one or more of the following:

- www.apple.com
- <https://support.apple.com>

- <https://appleid.apple.com>
- <https://itunes.apple.com>
- www.youtube.com

Apple is thereby liable for infringement of the '646 Patent under 35 U.S.C. § 271(b).

13. Apple has indirectly infringed and continues to indirectly infringe at least claims 1-18 and 20-22 of the '646 Patent by, among other things, contributing to the direct infringement by others including, without limitation customers using the Accused Infringing Devices as described above, 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 '646 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

14. For example, the software in the Accused Infringing Devices that allows their operation as described in this Count is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patent process. Furthermore, the software 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. Apple is, therefore, liable for infringement under 35 U.S.C. § 271(c).

15. Apple will have been on notice of the '646 Patent since, at the latest, the service of the Original Complaint upon Apple in this case. By the time of trial, Apple will have known and intended (since receiving such notice) that its continued actions would actively induce, and contribute to, the infringement of claims 1-18 and 20-22 of the '646 Patent.

16. Apple may have infringed the '646 Patent through other software and/or devices utilizing the same or reasonably similar functionality, including other current and/or future versions of the accused software and Accused Infringing Devices that allow a user of iPhones, iPads and/or Watches to wake up such devices as described above. Uniloc reserves the right to discover and pursue all such additional infringing software and devices.

17. Uniloc has been damaged by Apple's infringement of the '646 Patent.

PRAYER FOR RELIEF

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

- (A) declaring that Apple has infringed the '646 Patent;
- (B) awarding Uniloc its damages suffered as a result of Apple's infringement of the '646 Patent;
- (C) awarding Uniloc its costs, attorneys' fees, expenses and interest, and
- (D) granting Uniloc such 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.

Date: August 4, 2017.

Respectfully submitted,

/s/ Kevin Gannon

Paul J. Hayes

Kevin Gannon

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ATTORNEYS FOR THE PLAINTIFFS

CERTIFICATE OF SERVICE

I certify that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on August 4, 2017.

/s/ Kevin Gannon