

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

UNILOC USA, INC. and UNILOC
LUXEMBOURG S.A.,

Plaintiffs,

v.

AMAZON.COM, INC and AMAZON WEB
SERVICES, INC.,

Defendants.

Civil Action No. 2:17-cv-228

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 defendants Amazon.com, Inc. and Amazon Web Services, Inc. (“Defendants”), 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 303, 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 several patents in the field of conference calling and messaging.

4. On information and belief, Amazon.com, Inc. is a Delaware corporation with its principal office at 410 Terry Avenue North, Seattle, WA 98109. Amazon.com, Inc. can be served

through its registered agent, Corporation Service Company, 2711 Centerville Rd., Wilmington, DE 19808. Amazon.com is the parent company of Amazon Web Services, Inc. and the primary operator and controller of the www.amazon.com commerce website.

5. Upon information and belief, Amazon Web Services, Inc. (“AWS”) is a Delaware corporation having office and employees throughout several of the United States, including Dallas, TX, 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. AWS is a wholly-owned subsidiary of Amazon.com., Inc. AWS is registered to do business in the state of Texas and can be served through its registered agent, Corporation Service Company, at 211 E 7st., Ste 620, Austin, TX 78701.

JURISDICTION AND VENUE

6. 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.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b). Upon information and belief, Defendants are 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 and/or services to one or more customers in Texas. Defendants also have a regular and established business in this District through, among other things, distribution facilities in this District appraised on the property tax rolls by Denton County at \$248 million¹ and servers in this district appraised on the property tax

¹ <https://www.dentoncad.com/api/notices/notice/699143?year=2017>

rolls by Denton County at \$428,000.² According to Amazon's website, Amazon offers infringing products for sale throughout the United States and Canada, including in the Eastern District of Texas.³ Further, Amazon advertises its infringing products throughout the Eastern District of Texas and claims financial benefits through its conducting of business in Texas, including: (a) accepting monies from the State of Texas relating to Amazon's engagements with Texas entities;⁴ (b) ongoing contracts with the State of Texas, including for the provision of infringing products and/or services to Texas governmental entities;⁵ (c) Amazon's agreement to be subject to the laws and jurisdiction of Texas;⁶ and (d) Amazon's assent to Texas insurance liability.⁷

8. Defendants are subject to this Court's jurisdiction pursuant to due process and/or the Texas Long Arm Statute due at least to their 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.

PATENTS-IN-SUIT

9. U.S. Patent No. 8,571,194 ("the '194 Patent"), entitled SYSTEM AND METHOD FOR INITIATING A CONFERENCE CALL by inventor by Tod C. Turner issued on October 29,

² <https://www.dentoncad.com/api/notices/notice/659411?year=2017>

³ Amazon Chime, Features, <https://chime.aws/features/> ("It's easy to participate, and you can join from anywhere.")

⁴ Texas Department of Information Resources, Contract for Services with Amazon Web Services, Inc., DIR CONTRACT # DIR-TSO- 2733, <http://dir.texas.gov/View-Search/Contracts-Detail.aspx?contractnumber=DIR-TSO-2733>; http://publishingext.dir.texas.gov/portal/internal/contracts-and-services/Contracts/Contract%20DIR_TSO_2733.pdf

⁵ ⁵ Cloud Services for the State of Texas Department of Information Resources, AWS, Inc. DIR CONTRACT # DIR-TSO-2733, <https://aws.amazon.com/contract-center/cloud-services-for-the-state-of-texas/>; State of Texas Department of Information Resources Contract for Services with Amazon Web Services, Inc., DIR CONTRACT # DIR-TSO- 2733, http://publishingext.dir.texas.gov/portal/internal/contracts-and-services/Contracts/Contract%20DIR_TSO_2733.pdf

⁶ *Id.* At 15 ("actions or proceedings arising from the Contract shall be heard in a state court of competent jurisdiction in Travis County, Texas").

⁷ *Id.* At 14-15.

2013. A true and correct copy of the '194 Patent is attached as Exhibit A hereto.

10. The '194 Patent spent over two years being examined at the United States Patent and Trademark Office. During examination of the '194 Patent, trained United States Patent Examiners considered at least twenty-six (26) references before determining that the inventions claimed in the '194 Patent deserved patent protection. Such references include, for example, various references from Microsoft Corporation, International Business Machines Corporation, and Nortel Networks Limited and Bell Canada.

11. U.S. Patent No. 7,804,948 (“the '948 Patent”), entitled SYSTEM AND METHOD FOR INITIATING A CONFERENCE CALL by inventor by Tod C. Turner issued on September 28, 2010. A true and correct copy of the '948 Patent is attached as Exhibit B hereto.

12. The '948 Patent spent over two years being examined at the United States Patent and Trademark Office. During examination of the '948 Patent, trained United States Patent Examiners considered at least thirteen (13) references before determining that the inventions claimed in the '948 Patent deserved patent protection. Such references include, for example, various references from Nortel Networks Limited and Bell Canada, and Lightbridge, Inc.

13. U.S. Patent No. 7,853,000 (“the '000 Patent”), entitled SYSTEM AND METHOD FOR INITIATING A CONFERENCE CALL” by inventor by Tod C. Turner issued on December 14, 2010. A true and correct copy of the '000 Patent is attached as Exhibit C hereto. The '194 Patent, the '948 Patent, and the '000 Patent are collectively referred to as the “Patents-in-Suit.”

14. The '000 Patent spent over two years being examined at the United States Patent and Trademark Office. During examination of the '000 Patent, trained United States Patent Examiners considered at least five (5) references before determining that the inventions claimed in

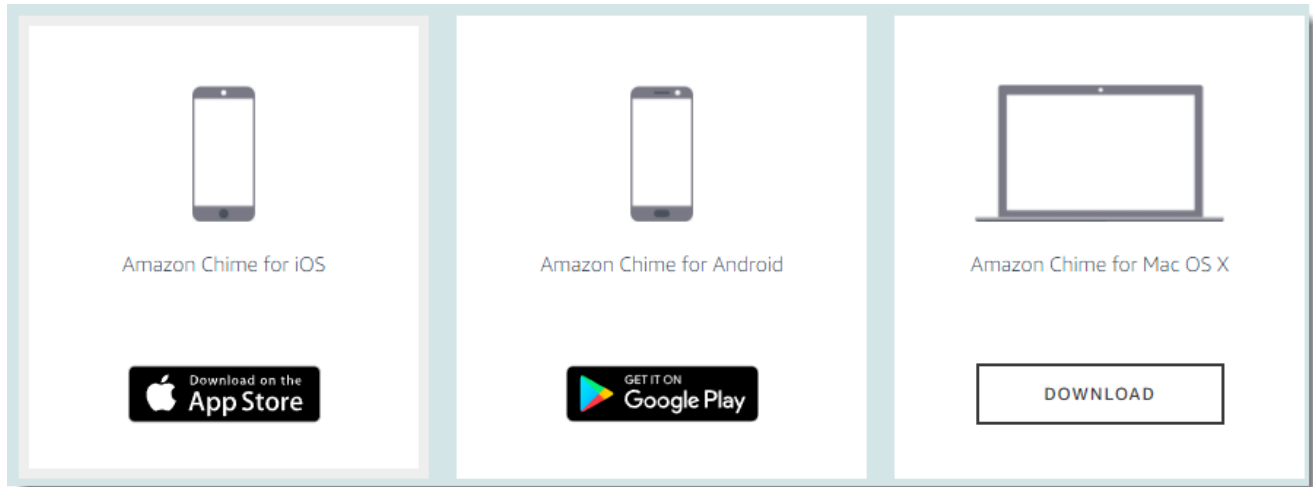
the '000 Patent deserved patent protection. Such references include, for example, various references from Converse Ltd., and Lightbridge, Inc.

15. The '194 Patent, the '948 Patent, and the '000 Patent are collectively referred to as the "Patents-in-Suit." The Patent-in-Suit are part of patent family that has been referenced by hundreds of other patent applications including patents applications by Microsoft Corporation; Yahoo! Inc.; Cisco Technology, Inc.; Sprint Communications Company L.P.; Research In Motion Limited; International Business Machines Corporation; AT&T Intellectual Property I, L.P.; Qualcomm Incorporated; Verizon Patent And Licensing Inc.; T-Mobile USA, Inc.; LG Electronics Inc.; Huawei Technologies Co., Ltd.; and Telefonaktiebolaget L M Ericsson.

16. Defendants have marketed and currently market a voice and messaging application under the name Amazon Chime. Defendants display information for their Chime product at the following URL: <https://chime.aws/>. The Chime client application can be downloaded from <https://chime.aws/download>, which references links to the Apple AppStore and the Google Play Store. The infrastructure required to run their Chime services and correspond to Chime clients is maintained on Defendants cloud infrastructure, referred to as Amazon Web Services.

17. No allegation of infringement is made against, nor is Amazon Chime for Windows an accused product. No allegation of infringement is made against the Chime client application when used in connection with Microsoft Windows and/or accessed through Microsoft Internet Explorer or Microsoft Edge web browsers.

18. The accused Chime client applications are Amazon Chime for iOS, Amazon Chime for Android and Amazon Chime for Mac OS X:



Source: <https://chime.aws/trial/>

Mac OS

Supported versions:

- OS X 10.10 and later

Hardware requirements:

- Microphone and speakers (for phone calls)
- Webcam (for sharing video)

Android

Supported versions:

- Android OS 3.0 and later

Software requirements:

- OpenGL ES is required for the screen share viewer.
- Google Services and Google Account are required for the best messaging experience.

Hardware requirements:

- Some features are not available on devices without Bluetooth, telephony, or Wi-Fi.
- Tablet and phone devices are supported.
- Kindle Fire tablets are currently not supported.

iOS

Supported versions:

- iOS 9.0 and later

Supported devices:

- iPad Air, Air 2, Mini, Mini 2, Mini 3, 4th generation, 3rd generation, iPad 2
- iPhone 6 Plus, 6, 5S, 5C, 5, 4S
- iPod Touch 5th generation

Note

PSTN dial-in functionality is not available on devices without telephony.

Source: <http://docs.aws.amazon.com/chime/latest/ug/chime-requirements.html>

COUNT I

(INFRINGEMENT OF U.S. PATENT NO. 8,571,194)

19. Uniloc incorporates the preceding paragraphs herein by reference.
20. Uniloc Luxembourg is the owner, by assignment, of the '194 Patent.
21. Uniloc USA is the exclusive licensee of the '194 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.

22. Upon information and belief, the following describes, at least in part, how Defendants' voice and messaging application works.

Home / Administration /

Hosts, Ports and Protocols needed for Amazon Chime services

BethChimeAWS created · Feb 07 at 12:42 AM · edited · Mar 02 at 01:58 AM

Amazon Chime requires the following hosts, ports and protocols to support the various services. If traffic is blocked it can result in the inability to utilize various services including audio, video, screen sharing and chat.

Service	Host	IP Address	Ports
Audio (App)	N/A	52.54.62.192/26	UDP/7200
	N/A	52.54.63.0/25	UDP/7200
	N/A	52.54.63.128/26	UDP/7200
	N/A	52.55.63.128/25	UDP/7200
	haxrp.m1.ue1.app.chime.aws	N/A	TCP/443
	haxrp.m2.ue1.app.chime.aws	N/A	TCP/443
	haxrp.m3.ue1.app.chime.aws	N/A	TCP/443
Screen (App)	bitp.m1.ue1.app.chime.aws	N/A	TCP/443
	bitp.m2.ue1.app.chime.aws	N/A	TCP/443
	bitp.m3.ue1.app.chime.aws	N/A	TCP/443
Screen (Web)	chime.aws	N/A	TCP/443
	bitpw.m1.ue1.app.chime.aws	N/A	TCP/443
	bitpw.m2.ue1.app.chime.aws	N/A	TCP/443
	bitpw.m3.ue1.app.chime.aws	N/A	TCP/443
Video (App)	N/A	52.54.62.192/26	TCP/443 UDP/16384:17383 UDP/3478
	N/A	52.54.63.0/25	TCP/443 UDP/16384:17383 UDP/3478
	N/A	52.54.63.128/26	TCP/443 UDP/16384:17383 UDP/3478
	N/A	52.55.63.128/25	TCP/443 UDP/16384:17383 UDP/3478
H.323	N/A	52.23.133.56	TCP/1720
	N/A	52.54.206.237	TCP/1720
	N/A	52.55.62.128/25	TCP/1024:65535 UDP/1024:65535
	N/A	52.55.63.0/25	TCP/1024:65535 UDP/1024:65535

See bandwidth requirements here: [Bandwidth for Amazon Chime media](#).

Source: <https://answers.chime.aws/articles/123/hosts-ports-and-protocols-needed-for-amazon-chime.html>

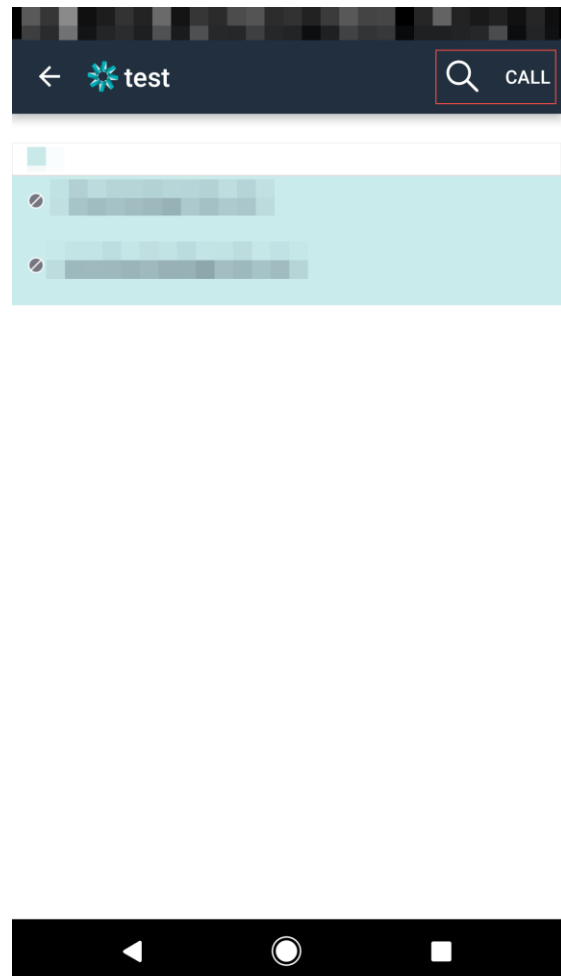
23. Through an Amazon Chime client, a conference call can be initiated with multiple participants. This is done by clicking on the icon to call everyone in a group. Accordingly, a conference call is then established.

Start a Group Chat

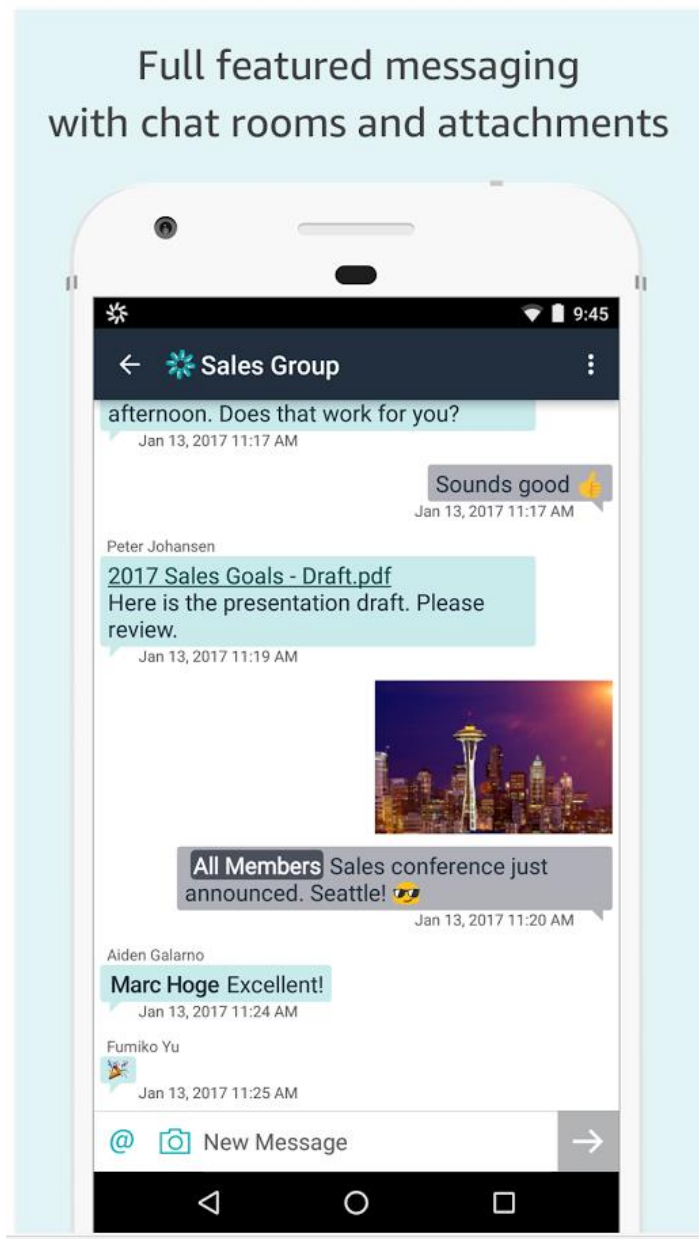
To send the same messages to more than one person

1. Access chat from the left side of the Amazon Chime desktop app or the **Messages and Rooms** tab in the mobile app.
2. Choose **Group Message** and add up to 50 users to the **To:** field.
3. Messages are sent to your desktop app if it's the most active device. If you're away or on a mobile device, Amazon Chime sends them to your mobile app as push notifications.
4. To start an instant meeting, choose the phone icon in the upper-right corner to call everyone in the group.

Source: <http://docs.aws.amazon.com/chime/latest/ug/group-chat.html>.



24. The following shows features of Amazon Chime for Android.



Source: <https://play.google.com/store/apps/details?id=com.amazon.chime>

25. The following shows features of Amazon Chime for iOS.



Source: <https://itunes.apple.com/us/app/amazon-chime/id1183436022?mt=8>

26. The following citation shows that a conference call can be initiated among all the members of a chat room by clicking on the phone receiver icon.

Create a Chat Room

To collaborate in a less direct way on projects, invite others during escalations, or discussions topics or teams on an ongoing basis, you can create a chat room.

To create a chat room

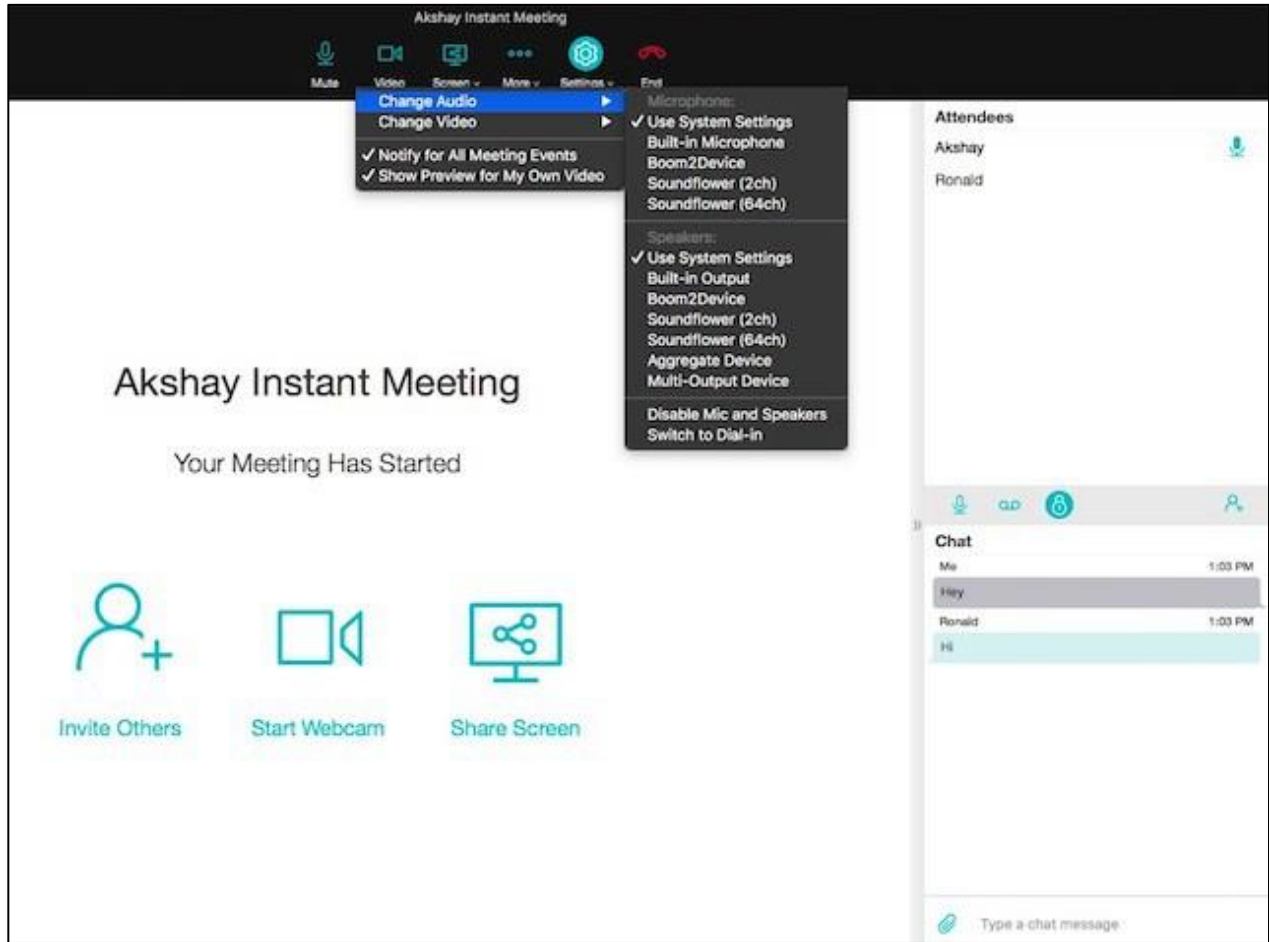
1. Choose **Rooms, New Room**.
2. Enter a name for the room and choose **Create**.
3. Add members from your contact list.
4. Invitees receive an Amazon Chime notification and the chat room automatically opens on their desktop app. (Mobile users receive push notifications.)
5. Members are listed on the right side of the chat room.
6. To start an instant meeting, choose the phone receiver icon and choose a single member, multiple members, or the entire room.
7. To close the chat room but remain a member, choose the red X next to the name of the room.
8. To leave the chat room (you must be re-invited to return), choose **Settings, Leave the chat room**.

Source: <http://docs.aws.amazon.com/chime/latest/ug/chime-ug.pdf> (Page 20)

1. Defendant also refer to such meetings as “Instant Meetings,” which are based on current participants in a chat session.



Source: <http://beebom.com/amazon-chime-vs-skype-comparison/>



Source: <http://beebom.com/amazon-chime-vs-skype-comparison/>







2. Defendants use “Smart Presence” for their Amazon Chime service with the conventional concepts of green meaning available, red meaning busy or in a meeting etc.

- **Smart Presence** – Chime uses what Amazon calls a “smart presence” to indicate status with the usual standard concept of green means you’re there, but red means you’re busy. Like usual you can set your presence manually to busy, but Amazon also threw in something you don’t necessarily see very often: the ability for users to set themselves invisible, and appear as if they are offline, for absolute privacy. Your developers will love that one.

Source: <https://getvoip.com/blog/2017/02/14/amazon-chime-uc/>

Presence

1. Color icons next to names indicates their status.
 - Green** is available.
 - Red** is in a meeting or busy.
 - Green mobile** is not on desktop and has a mobile device available.
 - Orange** is desktop idle (10 minutes since last keyboard/mouse activity).
 - Grey** is the user has not been active on Amazon Chime for more than 6 days.
 - Lock** is the user's **Presence** is hidden
2. Manually set your **Presence** to available or busy on desktop by choosing the options next to your name or on mobile by choosing your name on the **Contacts** tab.
3. Hide your **Presence** status in the **Settings** tab on a mobile client ("Share availability information with" Everyone or **No One**).

-  **Mary Smith**
-  **Derek H. Bradford**
-  **Edna Garner**
-  **Katie Terry**
-  **Wayne Murphy**
-  **Tim Atwood**

Source: <https://chime.aws/gettingstarted/>

Announcing Amazon Chime: Frustration-free online meetings with exceptional audio and video quality

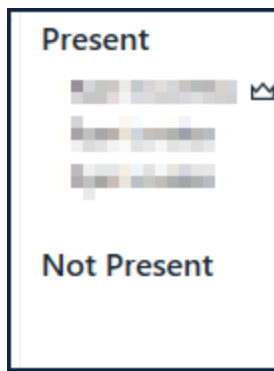
Posted On: Feb 13, 2017

Amazon Chime is now available to all customers. Amazon Chime is a modern, fully-managed communications service from AWS that makes it easy for you to communicate with people inside and outside your organization using voice, video, and chat. With Amazon Chime, online meetings are easier and more efficient, crystal clear audio and high definition video keep you focused on the discussion, and the service is designed to work seamlessly across desktops and mobile devices. Because Amazon Chime is a managed service that runs on AWS, it doesn't require you to deploy or maintain complex infrastructure and software. And you benefit from the security that comes with a data center and network architecture built to meet the requirements of the most security-sensitive organizations.

You can use Amazon Chime for online meetings, video conferencing, voice calls, chat, and to share content, all from the same easy-to-use app. Meetings start on time because they're easy to join – meetings call you and you can join with a single tap. Lengthy pins are a thing of the past. A visual roster shows who has joined the meeting and who is running late, and allows anyone to mute background noise. Amazon Chime offers rich apps for iOS, Android, Windows, and Mac, and your chats are always synchronized across your devices. You can switch seamlessly between devices anytime, even in the middle of a meeting.

Source: <https://aws.amazon.com/about-aws/whats-new/2017/02/announcing-amazon-chime-frustration-free-online-meetings-with-exceptional-audio-and-video-quality/>

3. The following is also an example of who is present:



Source: product testing

4. Defendants have directly infringed, and continue to directly infringe one or more claims of the '194 Patent, including at least Claim 16, in this judicial district and elsewhere in Texas, literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling their voice and messaging application during the pendency of the '194 Patent which *inter alia* comprises instructions for displaying an instant message chat window, exchanging instant messages between two or more parties, displaying an indication of whether parties are connected to said instant message session, and automatically initiating an audio/video call between the participants.

5. In addition, should Defendants' voice and messaging application be found to not literally infringe one or more claims of the '194 Patent, Defendants' accused products would nevertheless infringe one or more claims of the '194 Patent, including at least Claim 16, under the doctrine of equivalents. More specifically, the accused voice and messaging application performs substantially the same function (contains instructions for implementing an IM to voice/video call capability), in substantially the same way (comprising computer readable instructions contained in or loaded into non-transitory memory) to yield substantially the same result (effecting an instant message to voice/video call). Defendants would thus be liable for direct infringement under the

doctrine of equivalents.

6. Defendants have indirectly infringed and continue to indirectly infringe one or more claims of the '194 Patent, including at least Claim 16, in this judicial district and elsewhere in the Texas by, among other things, actively inducing the using, offering for sale, selling, and/or importation of Defendants' messaging software. Defendants' customers who use such software in accordance with Defendants' instructions directly infringe one or more of the above identified claims of the '194 Patent in violation of 35 U.S.C. § 271.

7. Defendants instructs their customers in the use of their messaging software through Internet demonstrations, training videos, brochures and administration, maintenance, installation and/or user guides, such as those located at the following:

<https://chime.aws/training/>

Defendants are thereby liable for infringement of the '194 Patent pursuant to 35 U.S.C. § 271(b).

8. Defendants have indirectly infringed and continue to indirectly infringe one or more claims of the '194 Patent, including at last Claim 16, by among other things, contributing to the direct infringement by others, including without limitation users of their messaging software, by making, using, offering to sell, or selling, in Texas, and/or importing a component of a patented machine, manufacture, or combination, or an apparatus for use in the practicing a patent process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in infringement of the '194 Patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

9. For example, the Defendants' messaging software module that allows users to initiate a call from an instant message window is a component of a patented machine, manufacture,

or combination, or an apparatus for use in practicing a patented process. Furthermore, such software module is a material part of the invention and upon information and belief is not a staple article or commodity of commerce suitable for substantial non-infringing use. Thus, Defendants are liable for infringement pursuant to 35 U.S.C. § 271(c).

10. Defendants will have been on notice of the '194 Patent since, at the latest, the service of this complaint. By the time of trial, Defendants will thus have known and intended (since receiving such notice), that their continued actions would actively induce and contribute to actual infringement of one or more claims of the '194 Patent, including at least Claim 16.

11. Defendants may have infringed the '194 Patent through other software, currently unknown to Uniloc, utilizing the same or reasonably similar functionality, including other versions of their voice and messaging application. Uniloc reserves the right to discover and pursue all such additional infringing software.

COUNT II

(INFRINGEMENT OF U.S. PATENT NO. 7,804,948)

12. Uniloc incorporates the preceding paragraphs herein by reference.

13. Uniloc Luxembourg is the owner, by assignment, of the '948 Patent.

14. Uniloc USA is the exclusive licensee of the '948 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.

15. Defendants sell multiple network accessible devices via their web store, Amazon.com

16. Defendants have directly infringed, and continues to directly infringe one or more

claims of the '948 Patent, including at least Claim 1, in this judicial district and elsewhere in Texas, literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling devices with their voice and messaging application during the pendency of the '948 Patent which *inter alia* comprises instructions for establishing a communications connection between the network access device and a conference call server; displaying potential targets then being connected to an instant messaging service; generating a conference call request responsively to a single request; and automatically establishing a conference call connection.

17. In addition, should Defendants' voice and messaging application be found to not literally infringe one or more claims of the '948 Patent, Defendants' accused products would nevertheless infringe one or more claims of the '948 Patent, including at least Claim 1, under the doctrine of equivalents. More specifically, the accused voice and messaging application performs substantially the same function (implementing an IM to voice/video call capability), in substantially the same way (through instructions) to yield substantially the same result (effecting an instant message to voice/video call). Defendants would thus be liable for direct infringement under the doctrine of equivalents.

18. Defendants have indirectly infringed and continues to indirectly infringe one or more claims of the '948 Patent, including at least Claim 1, in this judicial district and elsewhere in Texas by, among other things, actively inducing the using, offering for sale, selling, and/or importation of Defendants' messaging software. Defendants' customers who use such devices and software in accordance with Defendants' instructions directly infringe one or more of the above identified claims of the '948 Patent in violation of 35 U.S.C. § 271.

19. Defendants instructs their customers in the use of their messaging software through

Internet demonstrations, training videos, brochures and administration, maintenance, installation and/or user guides, such as those located at the following:

<https://chime.aws/training/>

Defendants are thereby liable for infringement of the '194 Patent pursuant to 35 U.S.C. § 271(b).

20. Defendants have indirectly infringed and continues to indirectly infringe one or more claims of the '948 Patent, including at least Claim 1, by among other things, contributing to the direct infringement by others, including without limitation users of their messaging software, by making, using, offering to sell, or selling, in Texas, and/or importing a component of a patented machine, manufacture, or combination, or an apparatus for use in the practicing a patent process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in infringement of the '948 Patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

21. For example, the Defendants' messaging software module that allows users to initiate a call from an instant message window is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patented process. Furthermore, such software module is a material part of the invention and upon information and belief is not a staple article or commodity of commerce suitable for substantial non-infringing use. Thus, Defendants are liable for infringement pursuant to 35 U.S.C. § 271(c).

22. Defendants will have been on notice of the '948 Patent since, at the latest, the service of this complaint. By the time of trial, Defendants will thus have known and intended (since receiving such notice), that their continued actions would actively induce and contribute to actual infringement of one or more claims of the '948 Patent, including at least Claim 1.

23. Defendants may have infringed the '948 Patent through other software, currently unknown to Uniloc, utilizing the same or reasonably similar functionality, including other versions of their voice and messaging application. Uniloc reserves the right to discover and pursue all such additional infringing software.

COUNT III

(INFRINGEMENT OF U.S. PATENT NO. 7,853,000)

24. Uniloc incorporates the preceding paragraphs herein by reference.

25. Uniloc Luxembourg is the owner, by assignment, of the '000 Patent.

26. Uniloc USA is the exclusive licensee of the '000 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.

27. Defendants have directly infringed, and continues to directly infringe one or more claims of the '000 Patent, including at least Claim 1, in this judicial district and elsewhere in Texas, literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling devices with their voice and messaging application during the pendency of the '000 Patent which *inter alia* comprises instructions for indicating a plurality of potential targets then being connected to an instant messaging service and participating in a given instant messaging session with a conference call requester and generating a conference call request responsively to a single request by the conference call requester where a conference call is automatically established.

28. In addition, should Defendants' voice and messaging application be found to not literally infringe one or more claims of the '000 Patent, Defendants' accused products would nevertheless infringe one or more claims of the '000 Patent, including at least Claim 1, under the

doctrine of equivalents. More specifically, the accused voice and messaging application performs substantially the same function (implementing an IM to voice/video call capability), in substantially the same way (through instructions) to yield substantially the same result (effecting an instant message to voice/video call). Defendants would thus be liable for direct infringement under the doctrine of equivalents.

29. Defendants have indirectly infringed and continue to indirectly infringe one or more of the '000 Patent, including at least Claim 1, in this judicial district and elsewhere in Texas by, among other things, actively inducing the using, offering for sale, selling, and/or importation of Defendants' messaging software. Defendants' customers who use such devices and software in accordance with Defendants' instructions directly infringe one or more of the above identified claims of the '000 Patent in violation of 35 U.S.C. § 271.

30. Defendants instructs their customers in the use of their messaging software through Internet demonstrations, training videos, brochures and administration, maintenance, installation and/or user guides, such as those located at the following:

<https://chime.aws/training/>

Defendants are thereby liable for infringement of the '000 Patent pursuant to 35 U.S.C. § 271(b).

31. Defendants have indirectly infringed and continues to indirectly infringe one or more claims of the '000 Patent, including at least Claim 1, by among other things, contributing to the direct infringement by others, including without limitation users of their messaging software, by making, using, offering to sell, or selling, in Texas, and/or importing a component of a patented machine, manufacture, or combination, or an apparatus for use in the practicing a patent process, constituting a material part of the invention, knowing the same to be especially made or especially

adapted for use in infringement of the '000 Patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

32. For example, the Defendants' messaging software module that allows users to initiate a call from an instant message window is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patented process. Furthermore, such software module is a material part of the invention and upon information and belief is not a staple article or commodity of commerce suitable for substantial non-infringing use. Thus, Defendants are liable for infringement pursuant to 35 U.S.C. § 271(c).

33. Defendants will have been on notice of the '000 Patent since, at the latest, the service of this complaint. By the time of trial, Defendants will thus have known and intended (since receiving such notice), that their continued actions would actively induce and contribute to actual infringement of one or more claims of the '000 Patent, including at least Claim 1.

34. Defendants may have infringed the '000 Patent through other software, currently unknown to Uniloc, utilizing the same or reasonably similar functionality, including other versions of their voice and messaging application. Uniloc reserves the right to discover and pursue all such additional infringing software.

JURY DEMAND

24. 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 Defendants, and that the Court grant Uniloc the following relief:

- (A) that Defendants have infringed the '194 Patent, the '948 Patent and the '000 Patent;
- (B) awarding Uniloc its damages suffered as a result of Defendants' infringement of the '194 Patent, the '948 Patent and the '000 Patent pursuant to 35 U.S.C. § 284;
- (C) awarding Uniloc its costs, attorneys' fees, expenses, and interest, and
- (D) granting Uniloc such other and further relief as the Court may deem just and proper.

Dated: August 15, 2017

Respectfully submitted,

/s/ James L. Etheridge

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