

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

UNILOC USA, INC. and	§	
UNILOC LUXEMBOURG, S.A.,	§	
Plaintiffs,	§	Civil Action No. 2:17-cv-650
	§	
v.	§	PATENT CASE
	§	
SAMSUNG ELECTRONICS AMERICA, INC. and	§	
SAMSUNG ELECTRONICS CO. LTD.,	§	
Defendants.	§	JURY TRIAL DEMANDED
	§	

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs, Uniloc USA, Inc. (“Uniloc USA”) and Uniloc Luxembourg, S.A. (“Uniloc Luxembourg”) (together, “Uniloc”), as and for their complaint against defendants, Samsung Electronics America, Inc. (“SEA”) and Samsung Electronics Co. Ltd. (“SEC”) (together, “Samsung”), allege as follows:

THE PARTIES

1. 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 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. SEA is a New York corporation having a principal place of business in Ridgefield Park, New Jersey. SEA may be served with process through its registered agent for service in Texas: CT Corporation System, 1999 Bryant Street, Suite 900, Dallas, Texas 75201.

4. SEC is a South Korean corporation having a principal place of business in Seoul, Republic of Korea.

5. Samsung offers its products and/or services, including those accused herein of infringement, to customers and potential customers located in Texas and in the judicial Eastern District of Texas.

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 and 1338(a).

7. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), (c) and 1400(b). Samsung has a regular and established place of business in this judicial district at 1301 E. Lookout Drive, Richardson, Texas 75080. *See CyWee Group Ltd. v. Samsung Elecs. Am., Inc.*, Case No. 2:17-cv-00140-RWS-RWP, Dkt. No. 15 at ¶ 5 (E.D. Tex.).

8. Samsung is subject to this Court's jurisdiction pursuant to due process and/or the Texas Long Arm Statute due at least to its substantial presence and business in this State and judicial district, including: (A) at least part of its past infringing activities, (B) regularly doing and soliciting business in this District and elsewhere in Texas and/or (C) engaging in persistent conduct and deriving substantial revenue from goods and services provided to customers in Texas.

ACCUSED INSTRUMENTALITIES

9. Samsung manufactures, uses, sells, offers for sale and/or imports into the United States electronic devices, including those designated Galaxy A3, Galaxy A5, Galaxy A7, Galaxy A9, Galaxy C5 Pro, Galaxy C7 Pro, Galaxy S4 mini, Galaxy S5, Galaxy S5 Neo, Galaxy S6, Galaxy S6 Edge, Galaxy S6 Edge+, Galaxy S6 Edge+ Duos, Galaxy S7, Galaxy S7 active, Galaxy S7 Edge, Galaxy S8 Galaxy S8+, Galaxy J3 Emerge, Galaxy J5, Galaxy J7 Pro, Galaxy J7 V, Galaxy Tab S2, Galaxy Tab S3, Galaxy Note 5, Galaxy Note Note 5 Duos, Galaxy Note7, Gear Sport, Gear S3 classic LTE, Gear S3 classic, Gear S3 frontier, Gear S3 frontier LTE, Gear S2 classic 3G, Gear S2 classic, Gear, S2, Gear S2, 3G, Gear S, Gear 2 Neo, Gear Live, Gear 2, and Galaxy Gear, that are equipped with motion sensors (such as pedometers, gyroscopes and accelerometers), processors to detect, record and process motion/movement, and associated software, and/or are used with downloaded apps, such as Samsung S Health and Health, (together “Accused Infringing Devices”).

COUNT I

(INFRINGEMENT OF U.S. PATENT NO. 7,653,508)

10. Uniloc incorporates paragraphs 1-9 above by reference.

11. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 7,653,508 (“the ’508 Patent”), entitled HUMAN ACTIVITY MONITORING DEVICE that issued on January 26, 2010. A true and correct copy of the ’508 Patent is attached as Exhibit A hereto.

12. Uniloc USA is the exclusive licensee of the ’508 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.

13. Samsung has directly infringed, and continues to directly infringe one or more claims of the ’508 Patent in the United States during the pendency of the ’508 Patent, including at

least claims 1, 3, 6, 7, 11, 15, 16 and 19 literally and/or under the doctrine of equivalents, by or through making, using, offering for sale, selling and/or importing the Accused Infringing Devices.

14. In addition, should use of the Accused Infringing Devices be found to not literally infringe the asserted claims of the '508 Patent, use of the Accused Infringing Devices would nevertheless infringe the asserted claims of the '508 Patent. More specifically, the Accused Infringing Devices perform substantially the same function (monitoring periodic human activity), in substantially the same way (using components such as accelerometers, processors and associated software to detect motion and process such information), to yield substantially the same result (providing a calculation of the distance traveled by monitoring periodic human motion). Samsung would thus be liable for direct infringement under the doctrine of equivalents.

15. Samsung has indirectly infringed and continues to indirectly infringe at least claims 1, 3, 6, 7, 11, 15, 16 and 19 of the '508 Patent in the United States by, among other things, actively inducing the using, offering for sale, selling and/or importing the Accused Infringing Devices. Samsung's customers who use such devices in accordance with Samsung's instructions directly infringe claims 1, 3, 6, 7, 11, 15, 16 and 19 of the '508 Patent in violation of 35 U.S.C. § 271. Samsung 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.samsung.com, including:
 - www.samsung.com/us/support/
- <https://shealth.samsung.com>
- <https://support-us.samsung.com>
- <https://play.google.com/store/apps/>

- o www.youtube.com, including:

www.youtube.com/watch?v=zekdol4kWCE

Samsung is thereby liable for infringement of the '508 Patent under 35 U.S.C. § 271(b).

16. Samsung has indirectly infringed and continues to indirectly infringe at least Claims 1, 3, 6, 7, 11, 15, 16 and 19 of the '508 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 using the Accused Infringing Devices, 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 '508 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

17. Samsung will have been on notice of the '508 Patent since, at the latest, the service of this complaint upon Samsung. By the time of trial, Samsung will have known and intended (since receiving such notice) that its continued actions would actively induce the infringement of claims 1, 3, 6, 7, 11, 15, 16 and 19 of the '508 Patent.

18. Samsung may have infringed the '508 Patent through the manufacture, use, sale, offering for sale and/or importation of other devices and software utilizing the same or reasonably similar functionality as provided by the Accused Infringing Devices, including through the sale and distribution of third party apps. Uniloc reserves the right to discover and pursue all such additional infringing software and devices.

19. Uniloc has been damaged by Samsung's infringement of the '508 Patent.

COUNT II
(INFRINGEMENT OF U.S. PATENT NO. 8,712,723)

20. Uniloc incorporates paragraphs 1-9 above by reference.

21. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 8,712,723 (“the ’723 Patent”), entitled HUMAN ACTIVITY MONITORING DEVICE that issued on April 29, 2014. A true and correct copy of the ’723 Patent is attached as Exhibit B hereto.

22. 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.

23. Samsung has directly infringed, and continues to directly infringe one or more claims of the ’723 Patent in the United States during the pendency of the ’723 Patent, including at least claims 1, 5, 6, 10, 14, 16, and 17 literally and/or under the doctrine of equivalents, by or through making, using, offering for sale, selling and/or importing the Accused Infringing Devices.

24. In addition, should use of the accused devices be found to not literally infringe the asserted claims of the ’723 Patent, use of the Accused Infringing Devices would nevertheless infringe the asserted claims of the ’723 Patent. More specifically, the Accused Infringing Devices perform substantially the same function (counting steps or other periodic human motions), in substantially the same way (using components such as accelerometers, processors to detect motion and associated software), to yield substantially the same result (providing a calculation of the distance traveled). Samsung would thus be liable for direct infringement under the doctrine of equivalents.

25. Samsung has indirectly infringed and continues to indirectly infringe at least claims 1, 5, 6, 10, 14, 16, and 17 of the ’723 Patent in the United States by, among other things, actively inducing the using, offering for sale, selling and/or importing the Accused Infringing Devices.

Samsung's customers who use such devices in accordance with Samsung's instructions directly infringe claims 1, 5, 6, 10, 14, 16, and 17 of the '723 Patent in violation of 35 U.S.C. § 271. Samsung 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.samsung.com, including:
www.samsung.com/us/support/
- <https://shealth.samsung.com>
- <https://support-us.samsung.com>
- <https://play.google.com/store/apps/>
- www.youtube.com, including:
www.youtube.com/watch?v=zekdol4kWCE

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

26. Samsung has indirectly infringed and continues to indirectly infringe at least Claims 1, 5, 6, 10, 14, 16, and 17 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 using the Accused Infringing Devices, 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.

27. Samsung will have been on notice of the '723 Patent since, at the latest, the service of this complaint upon Samsung. By the time of trial, Samsung will have known and intended (since receiving such notice) that its continued actions would actively induce the infringement of claims 1, 5, 6, 10, 14, 16, and 17 of the '723 Patent.

28. Samsung may have infringed the '723 Patent through the manufacture, use, sale, offering for sale and/or importation of other devices and software utilizing the same or reasonably similar functionality as provided by the Accused Infringing Devices, including through the sale and distribution of third party apps. Uniloc reserves the right to discover and pursue all such additional infringing software and devices.

29. Uniloc has been damaged by Samsung's infringement of the '723 Patent.

COUNT III
(INFRINGEMENT OF U.S. PATENT NO. 7,881,902)

30. Uniloc incorporates paragraphs 1-9 above by reference.

31. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 7,881,902 ("the '902 Patent"), entitled HUMAN ACTIVITY MONITORING DEVICE that issued on February 1, 2011. A true and correct copy of the '902 Patent is attached as Exhibit C hereto.

32. Uniloc USA is the exclusive licensee of the '902 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.

33. Samsung has directly infringed, and continues to directly infringe one or more claims of the '902 Patent in the United States during the pendency of the '902 Patent, including at least claims 1, 2 and 4 literally and/or under the doctrine of equivalents, by or through making, using, offering for sale, selling and/or importing the Accused Infringing Devices.

34. In addition, should use of the accused devices be found to not literally infringe the asserted claims of the '902 Patent, use of the Accused Infringing Devices would nevertheless infringe the asserted claims of the '902 Patent. More specifically, the Accused Infringing Devices perform substantially the same function (detecting motion and non-motion using a mobile device), in substantially the same way (using components such accelerometers and processors and associated software to detect motion and non-motion), to yield substantially the same result (detecting motion and when the motion does not have a motion signature of a user activity that the mobile device is configured to monitor, entering a sleep mode). Samsung would thus be liable for direct infringement under the doctrine of equivalents.

35. Samsung has indirectly infringed and continues to indirectly infringe at least claims 1, 2 and 4 of the '902 Patent in the United States by, among other things, actively inducing the using, offering for sale, selling and/or importing the Accused Infringing Devices. Samsung's customers who use such devices in accordance with Samsung's instructions directly infringe claims 1, 2 and 4 of the '902 Patent in violation of 35 U.S.C. § 271. Samsung 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.samsung.com, including:

- www.samsung.com/us/support/

- <https://shealth.samsung.com>
- <https://support-us.samsung.com>
- <https://play.google.com/store/apps/>
- www.youtube.com, including:

- www.youtube.com/watch?v=zekdol4kWCE

Samsung is thereby liable for infringement of the '902 Patent under 35 U.S.C. § 271(b).

36. Samsung has indirectly infringed and continues to indirectly infringe at least Claims 1, 2 and 4 of the '902 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 using the Accused Infringing Devices, 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 '902 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

37. Samsung will have been on notice of the '902 Patent since, at the latest, the service of this complaint upon Samsung. By the time of trial, Samsung will have known and intended (since receiving such notice) that its continued actions would actively induce the infringement of claims 1, 2 and 4 of the '902 Patent.

38. Samsung may have infringed the '902 Patent through the manufacture, use, sale, offering for sale and/or importation of other devices and software utilizing the same or reasonably similar functionality as provided by the Accused Infringing Devices, including through the sale and distribution of third party apps. Uniloc reserves the right to discover and pursue all such additional infringing software and devices.

39. Uniloc has been damaged by Samsung's infringement of the '902 Patent.

PRAYER FOR RELIEF

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

- (A) declaring that Samsung has infringed the '508 Patent, the '723 Patent and the '902 Patent;
- (B) awarding Uniloc its damages suffered as a result of Samsung's infringement of the '508 Patent, the '723 Patent and the '902 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: September 15, 2017

Respectfully submitted,

/s/ Edward R. Nelson III

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