

**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-652
	§	
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 USA 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 Ridgefiled 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, including 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. SEA 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) engaging in 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 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 motion/movement, and associated software, that provide a motion-induced Wake-Up functionality (together “Accused Infringing Devices”).

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

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

11. 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.

12. 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.

13. Samsung 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, 3, 5, 6, 8, 9, 11, 13-18 and 20, 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 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 (using motion detecting components such as accelerometers, altimeters, gyroscopes, coprocessors and/or associated software to wake-up a device), in substantially the same way (using dominant axis gravity-related data), to yield substantially the same result (a device woken up by detected 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, 5, 6, 8, 9, 11, 13-18 and 20 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. Samsung's customers who use such devices in accordance with Samsung's instructions directly infringe claims 1, 3, 5, 6, 8, 9, 11, 13-18 and 20 of the '646 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://support-us.samsung.com>
- <https://news.samsung.com>
- <https://play.google.com/store/apps/>
- <https://www.youtube.com/user/SamsungMobile>

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

16. Samsung has indirectly infringed and continues to indirectly infringe at least claims 1, 3, 5, 6, 8, 9, 11, 13-18 and 20 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.

17. 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. Samsung is, therefore, liable for infringement under 35 U.S.C. § 271(c).

18. Samsung will have been on notice of the '646 Patent since, at the latest, the service of the Original Complaint upon Samsung in this case. 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, 5, 6, 8, 9, 11, 13-18 and 20 of the '646 Patent.

19. Samsung 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. Uniloc reserves the right to discover and pursue all such additional infringing software and devices.

20. Uniloc has been damaged by Samsung's infringement of the '646 Patent.

PRAYER FOR RELIEF

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

- (A) declaring that Samsung has infringed the '646 Patent;
- (B) awarding Uniloc its damages suffered as a result of Samsung'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: September 15, 2017.

Respectfully submitted,

/s/ Edward R. Nelson III

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