

**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-00746
Plaintiffs,	§	
	§	
v.	§	PATENT CASE
	§	
HUAWEI DEVICE USA, INC. and	§	
HUAWEI DEVICE CO. LTD.,	§	
	§	
Defendants.	§	JURY TRIAL DEMANDED
	§	

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs, Uniloc USA, Inc. and Uniloc Luxembourg, S.A. (together “Uniloc”), as and for their complaint against defendants, Huawei Device USA, Inc. and Huawei Device Co. Ltd. (together “Huawei”), 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. Huawei Device USA, Inc. (“Huawei USA”) is a Texas corporation having a regular and established principal place of business at 5700 Tennyson Parkway, Suite 500, Plano, Texas 75024. Huawei USA offers its products and/or services, including those accused herein of

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

4. Huawei Device Co. Ltd. (“Huawei China”) is a Chinese corporation having a principal place of business Bantian, Longgang District, Shenzhen, 518129 China. Huawei China does business in Texas and in the judicial Eastern District of Texas. Huawei China is in the business of, *inter alia*, manufacturing and selling electronic goods, including smartphones and smart watches sold in this judicial District.

JURISDICTION

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 and 1338(a).

6. This Court has personal jurisdiction over Huawei due, *inter alia*, to Huawei’s continuous presence in, and systematic contact with, this District and Huawei USA’s incorporation in Texas.

7. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (c) and 1400(b).

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

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

9. 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.

10. 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.

11. Huawei manufactures, uses, sells, offers for sale and/or imports into the United States numerous smart watches, including the following models: Watch, Watch 2, Watch 2 Pro, Watch 2 Classic and Huawei Fit that are equipped with motion sensors, processors and associated software that detect motion and provide motion-induced wakeup functionality (together "Accused Infringing Devices").

12. The Accused Infringing Devices use motion sensors and associated software to determine when the device is in transition from a relatively idle state to a more active state and to wake up the device as a result of such motion.

13. Huawei 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. Should the Accused Infringing 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 and gyroscopes 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). Huawei would thus be liable for direct infringement under the doctrine of equivalents.

15. Huawei 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 having the functionality described in this Count. Huawei's customers who use such devices in accordance with Huawei'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. Huawei 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.huawei.com, including:
 - www.huawei.com/en/
 - www.consumer.huawei.com/et-en/support/manuals/
 - www.consumer.huawei.com/en/phones/
 - www.consumer.huawei.com/en/wearables/
- www.HuaFirmware.com
- <https://htm.huawei.com>
- <http://download-cl.huawei.com>
- e.huawei.com
- <https://huawei.trustedreviews.com>
- www.youtube.com, including:
 - www.youtube.com/user/huawei
 - www.youtube.com/watch?v=CYXkc1BCNvo

www.youtube.com/watch?v=aeVYjx_8UE

www.youtube.com/watch?v=UGWPMysJ1Ng

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

16. Huawei 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 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 '646 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use. Huawei is thereby liable for infringement of the '646 Patent under 35 U.S.C. § 271(c).

17. Huawei will have been on notice of the '646 Patent since, at the latest, the service of this complaint upon Huawei. By the time of trial, Huawei 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.

18. Huawei may have infringed the '646 Patent through other devices and software utilizing the same or reasonably similar functionality as the Accused Infringing Devices. Uniloc reserves the right to discover and pursue all such additional infringing software and devices.

19. Uniloc has been damaged by Huawei's infringement of the '646 Patent.

PRAYER FOR RELIEF

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

- (A) declaring that Huawei has infringed the '646 Patent;
- (B) awarding Uniloc its damages suffered as a result of Huawei'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: November 16, 2017

Respectfully submitted,

/s/ Edward R. Nelson III

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