

**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-00651-JRG
	§	
Plaintiffs,	§	
	§	
v.	§	
	§	
SAMSUNG ELECTRONICS	§	
AMERICA, INC. and	§	
SAMSUNG ELECTRONICS CO. LTD.,	§	
	§	
Defendants.	§	
	§	

AMENDED COMPLAINT

As Federal Rule of Civil Procedure 15(a)(1)(B) permits amendment as a matter of course within 21 days after service of a motion under Rule 12(b), Plaintiffs, Uniloc USA, Inc. and Uniloc Luxembourg, S.A. (together, “Uniloc”), amend their earlier complaint against defendants, Samsung Electronics America, Inc. (“SEA”) and Samsung Electronics Co. Ltd. (“SEC”) (together, “Samsung”), to allege:

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. SEA is a New York corporation, having a principal place of business in Ridgefield Park, New Jersey.

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

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 jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

PATENT INFRINGEMENT

6. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 7,690,556 (“the ’556 Patent”), entitled STEP COUNTER ACCOUNTING FOR INCLINE, which issued on April 6, 2010, to DP Technologies, Inc. (“DP”) (A copy of the ’556 Patent was attached as Exhibit A to the Complaint.)

7. Uniloc USA is the exclusive licensee of the ’556 Patent, with ownership of all substantial rights in that patent, including the right to grant sublicenses, to exclude others, and to enforce, sue, and recover past damages for infringement.

8. The ’556 patent describes, in detail, and claims, in various ways and at different levels of specificity, an invention DP developed in 2006 as an improved step counter. The invention improved upon existing step counters by adding an incline logic to make a calculation of an incline of a surface by utilizing motion detected by an accelerometer, which detects three-dimensional motion of a user on a surface, where the calculation is performed for a step based on identifying a vertical travel up portion of the step, a vertical travel down portion of the step, and computing a difference between them. The invention also uses an altimeter to determine a change in altitude, with the incline logic utilizing that change to make an additional calculation of the

incline. The invention also uses energy calculation logic to calculate a calorie expenditure based on the steps and incline data.

9. The approach DP invented, and the methods and systems the '556 patent claims, were not conventional or generic in the industry in 2006, but rather involved or contain programming that represented a novel, and not obvious, approach that other companies in this field had not reduced to practice.

10. The invention represented a technological solution to a technological problem. The written description of the '556 patent describes, in technical detail, each of the limitations in the claims, allowing a person of skill in the art to understand what those limitations cover, and therefore what was claimed, and also understand how the nonconventional and non-generic ordered combination of the elements of the claims differs markedly from what had been conventional or generic in the industry in 2006.

11. Samsung manufactures, uses, sells, offers for sale, and imports 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 5 Duos, Galaxy Note 7, 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 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 are used with downloaded apps, such as Samsung S Health and Health (together, "Accused Infringing Devices"). The Accused Infringing Devices

are capable of calculating the number of steps taken (e.g., “Steps”) and distance covered (e.g., “Walking + Running Distance”) by a user, as well as determining the incline of the surface on which a user is walking or running for use in calculating calories burned by the user.

12. Samsung has infringed, and continues to infringe, at least claims 1, 2, 3, 5, 8-12, 15, 17-20, and 22 of the ’556 Patent by making, using, offering for sale, selling, and importing the Accused Infringing Devices.

13. Samsung has infringed, and continues to infringe, those same claims by actively inducing others to use, offer for sale, or sell the Accused Infringing Devices. Samsung’s customers who use those devices in accordance with Samsung’s instructions infringe claims of the ’556 Patent. Samsung intentionally instructs its customers to infringe through training videos, demonstrations, brochures, and installation and user guides, such as those located at:

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

Samsung also induces infringement by failing to remove or diminish infringing features of the Accused Infringing Devices.

14. Samsung has infringed, and continues to infringe, those same claims by contributing to the infringement by others, including customers, who use the Accused Infringing Devices, by offering to sell, selling, and importing 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 made or especially adapted for use in

infringing the '556 Patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

15. For example, the software that causes the Accused Infringing Devices to operate as described above is a component of a patented machine, manufacture, or combination. The software is a material part of the claimed inventions and is not a staple article or commodity of commerce suitable for substantial non-infringing use.

16. Samsung has been on notice of the '556 Patent since, at the latest, the service of the Complaint. By the time of trial, Samsung will have known and intended (since receiving such notice) that its continued actions would actively induce, and contribute to, the infringement of claims of the '556 Patent.

17. Samsung may have infringed the '556 Patent through other software and devices utilizing the same or reasonably similar functionality, including other versions of the accused software and Accused Infringing Devices, including through the sale and distribution of third party apps.

18. Uniloc has been damaged by Samsung's infringement of the '556 Patent.

PRAYER FOR RELIEF

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

- (A) declaring that Samsung has infringed the '556 Patent;
- (B) awarding Uniloc its damages suffered as a result of Samsung's infringement of the '556 Patent;
- (C) awarding Uniloc its costs, attorneys' fees, expenses, and interest, and
- (D) granting Uniloc such further relief as the Court may decide is warranted.

DEMAND FOR JURY TRIAL

Uniloc hereby demands trial by jury on all issues so triable pursuant to Fed. R. Civ. P. 38.

Date: December 29, 2017

Respectfully submitted,

/s/ James J. Foster

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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 December 29, 2017.

/s/ James J. Foster