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7 UNITED STATES DISTRICT COURT  
8 NORTHERN DISTRICT OF CALIFORNIA  
9 OAKLAND DIVISION

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

11 Plaintiffs, )

12 v. )

13 APPLE INC., )

14 Defendant. )  
15

Case No.: 4:18-cv-00361-PJH

**SECOND AMENDED COMPLAINT  
FOR PATENT INFRINGEMENT**

16 As the Docket Control Order (Dkt. 42 in what had been Consolidated Lead Case 2:17-cv-  
17 00470-JRG) permits amendment of pleadings through February 12, 2018, without leave of Court,  
18 Plaintiffs, Uniloc USA, Inc. (“Uniloc USA”) and Uniloc Luxembourg, S.A. (“Uniloc Luxembourg”) )  
19 (collectively, “Uniloc”), amend their earlier First Amended Complaint<sup>1</sup>, against defendant, Apple Inc.  
20 (“Apple”), to allege:

21 **THE PARTIES**

22 1. Uniloc USA is a Texas corporation, having a principal place of business at Legacy  
23 Town Center I, Suite 380, 7160 Dallas Parkway, Plano, Texas 75024.

24 2. Uniloc Luxembourg is a Luxembourg public limited liability company, having a  
25 principal place of business at 15, Rue Edward Steichen, 4<sup>th</sup> Floor, L-2540, Luxembourg (R.C.S.  
26 Luxembourg B159161).

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<sup>1</sup> As this Second Amended Complaint completely supersedes the earlier First Amended Complaint, its filing moots the pending motion to dismiss, Dkt. 17.

1           3.       Apple is a California corporation, having a principal place of business in Cupertino,  
2 California.

3   **JURISDICTION**

4           4.       Uniloc brings this action for patent infringement under the patent laws of the United  
5 States, 35 U.S.C. § 271, *et seq.* This Court has jurisdiction under 28 U.S.C. §§1331 and 1338(a).

6   **PATENT INFRINGEMENT**

7           5.       Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 8,872,646 (“the  
8 ’646 Patent”), entitled METHOD AND SYSTEM FOR WAKING UP A DEVICE DUE TO  
9 MOTION that issued on October 28, 2014. (A copy of the ’646 Patent was attached as Exhibit A to  
10 the Complaint.)

11          6.       Uniloc USA is the exclusive licensee of the ’646 Patent, with ownership of all  
12 substantial rights in that patent, including the right to grant sublicenses, to exclude others, and to  
13 enforce, sue, and recover past damages for infringement.

14          7.       The ’646 patent describes, in detail, and claims, in various ways and at different levels  
15 of specificity, an invention DP developed in 2008 as an improved method and system for waking up  
16 a device. The invention improved upon existing methods and systems by increasing the battery life  
17 of personal devices through incorporating a motion sensor in the device and waking the device from  
18 an idle power saving mode only when the motion sensed by the motion sensor meets a certain  
19 threshold.

20          8.       The approach DP invented, and the methods and systems the ’646 patent claims, were  
21 not conventional or generic in the industry in 2008, but rather involved or contain programming that  
22 represented a novel, and not obvious, approach that other companies in this field had not reduced to  
23 practice.

24          9.       The invention represented a technological solution to a technological problem. The  
25 written description of the ’646 patent describes, in technical detail, each of the limitations in the  
26 claims, allowing a person of skill in the art to understand what those limitations cover, and therefore  
27 what was claimed, and also understand how the nonconventional and non-generic ordered  
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1 combination of the elements of the claims differ markedly from what had been conventional or  
2 generic in the industry in 2008.

3 10. Apple makes, uses, sells, offers for sale, and imports electronic devices, such as  
4 iPhones (including versions SE, 6s, 6s+, 7, 7+, and 7 Red) and Watches that incorporate hardware  
5 (such as accelerometers, altimeters, gyroscopes, and M9/M10 motion detecting coprocessors/S2  
6 SiPs) and software (including iOS10.0.x and watchOS versions) that provide a Raise to Wake  
7 functionality to the devices (together, “Accused Infringing Devices”).

8 11. Apple has infringed, and continues to infringe, at least claims 1, 3, 5-6, 8-9, 11, 13-  
9 18, and 20, of the ’646 Patent, by making, using, offering for sale, selling, and importing Accused  
10 Infringing Devices. (Attached as Exhibit 1 is a chart identifying, as specifically as possible without  
11 discovery, where each element of each asserted claim is found within the accused instrumentalities.)

12 12. Apple has infringed, and continues to infringe, those same claims of the ’646 Patent  
13 by actively inducing others to use, offer for sale, or sell Accused Infringing Devices. Apple’s  
14 customers who use those devices in accordance with Apple’s instructions infringe claims of the ’646  
15 Patent. Apple intentionally instructs its customers to infringe through training videos,  
16 demonstrations, brochures, and installation and user guides, such as those located at:

- 17 • [www.apple.com](http://www.apple.com)
- 18 • <https://support.apple.com>
- 19 • <https://appleid.apple.com>
- 20 • <https://itunes.apple.com>
- 21 • [www.youtube.com](http://www.youtube.com)

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

24 13. Apple has infringed, and continues to infringe, those same claims of the ’646 Patent  
25 by contributing to the infringement by others, including customers who use the Accused Infringing  
26 Devices, by offering for sale, selling, and importing a component of a patented machine, manufacture,  
27 or combination, or of an apparatus for use in practicing a patented process, constituting a material  
28 part of the invention, knowing the same to be especially made or adapted for use in infringing the

1 '646 Patent, and not a staple article or commodity of commerce suitable for substantial non-infringing  
2 use.

3 14. For example, the software that causes the Accused Infringing Devices to operate as  
4 described above is a component of a patented machine, manufacture, or combination, or of an  
5 apparatus use in practicing a patented process. The software is a material part of the claimed  
6 inventions and is not a staple article or commodity of commerce suitable for substantial non-  
7 infringing use.

8 15. Apple has been on notice of the '646 Patent since, at the latest, the service of the  
9 original Complaint. By the time of trial, Apple will have known and intended (since receiving such  
10 notice) that its continued actions would actively induce, and contribute to, the infringement of claims  
11 of the '646 Patent.

12 16. Apple may have infringed the '646 Patent through other software and devices utilizing  
13 the same or reasonably similar functionality, including other current or future versions of the accused  
14 software and Accused Infringing Devices that allow a user of iPhones, iPads or Watches to wake up  
15 such devices, as described above.

16 17. Uniloc has been damaged by Apple's infringement of the '646 Patent.

17 **PRAYER FOR RELIEF**

18 Uniloc requests that the Court enter judgment against Apple as follows:

- 19 (A) declaring that Apple has infringed the '646 Patent;  
20 (B) awarding Uniloc its damages suffered as a result of Apple's infringement of the '646  
21 Patent;  
22 (C) awarding Uniloc its costs, attorneys' fees, expenses, and interest; and  
23 (D) granting Uniloc such further relief as the Court may decide is warranted.  
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Date: January 30, 2018

Respectfully submitted,

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