

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

	§	
UNILOC USA, INC. and	§	
UNILOC LUXEMBOURG, S.A.,	§	Civil Action No. 1:18-cv-00296-LY
	§	
Plaintiffs,	§	
	§	
v.	§	PATENT CASE
	§	
APPLE INC.,	§	
	§	
Defendant.	§	
	§	

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs, Uniloc USA, Inc. (“Uniloc USA”) and Uniloc Luxembourg, S.A. (“Uniloc Luxembourg”) (together, “Uniloc”), for their complaint against defendant, Apple Inc. (“Apple”), 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.

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. Apple is a California corporation, having a principal place of business in Cupertino, California and regular and established places of business at 12535 Riata Vista Circle and 5501 West Parmer Lane, Austin, Texas. Apple offers its products and/or services, including

those accused herein of infringement, to customers and potential customers located in Texas and in the judicial Western District of Texas.

JURISDICTION

4. 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 under 28 U.S.C. §§ 1331, 1332(a) and 1338(a).

COUNT I

(INFRINGEMENT OF U.S. PATENT NO. 6,467,088)

5. Uniloc incorporates paragraphs 1-4 above by reference.

6. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 6,467,088 (“the ’088 Patent”), entitled RECONFIGURATION MANAGER FOR CONTROLLING UPGRADES OF ELECTRONIC DEVICES, which issued on October 15, 2002. A copy of the ’088 Patent is attached as Exhibit A.

7. Uniloc USA is the exclusive licensee of the ’088 Patent, with ownership of all substantial rights, including the right to grant sublicenses, to exclude others, and to enforce and recover past damages for infringement.

8. The ’088 Patent describes in detail and claims in various ways inventions in systems and devices for improved management and control of reconfiguring electronic devices developed by the inventors around 1999.

9. The ’088 Patent describes problems and shortcomings in the then-existing field of the management of reconfiguring and controlling electronic devices and claims novel and inventive technological improvements and solutions to such problems and shortcomings. The technological improvements and solutions described and claimed in the ’088 Patent were not

conventional or generic at the time of their respective inventions but involved novel and non-obvious approaches to the problems and shortcomings prevalent in the art at the time.

10. The inventions claimed in the '088 Patent involve and cover more than just the performance of well-understood, routine and/or conventional activities known to the industry prior to the invention of such novel and non-obvious methods, systems and devices by the '088 Patent inventor.

11. The inventions claimed in the '088 Patent represent technological solutions to technological problems. The written description of the '088 Patent describes in technical detail each of the limitations of the claims, allowing a person of ordinary skill in the art to understand what the limitations cover and how the non-conventional and non-generic combination of claim elements differed markedly from and improved upon what may have been considered conventional or generic.

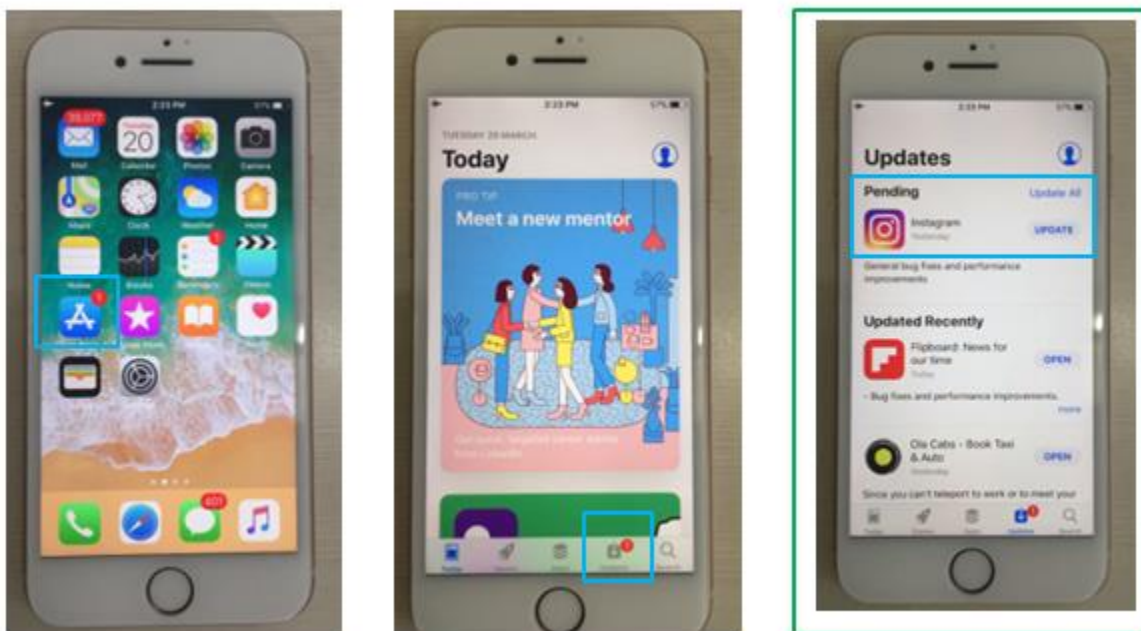
12. Apple imports, uses, offers for sale, and sells in the United States electronic devices running iOS operating systems subsequent to version 1.0, such as iPhones, iPads, iPods and the App Store and their associated servers implementing iOS update functionality (collectively, "Accused Infringing Devices").

13. Apple has infringed, and continues to infringe, claims of the '088 Patent in the United States, including claims 1-4, and 6-8, 10-14, 16-18, and 20-21, by making, using, offering for sale, selling and/or importing the Accused Infringing Devices in violation of 35 U.S.C. § 271(a).

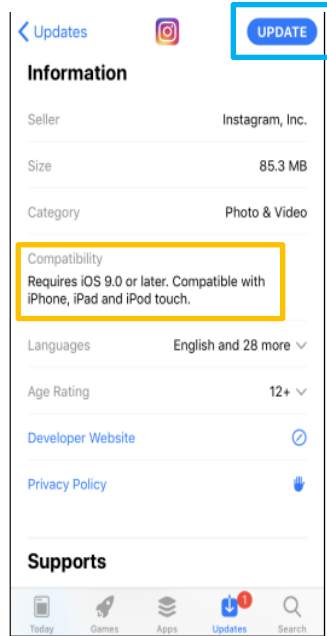
14. The Accused Infringing Devices infringe by, for example, performing processor-implemented management and control of the reconfiguration of the device. For example, the

iOS update functionality controls the reconfiguration of the device, such as, for example, the installation or update of an Apple App Store application on the device.

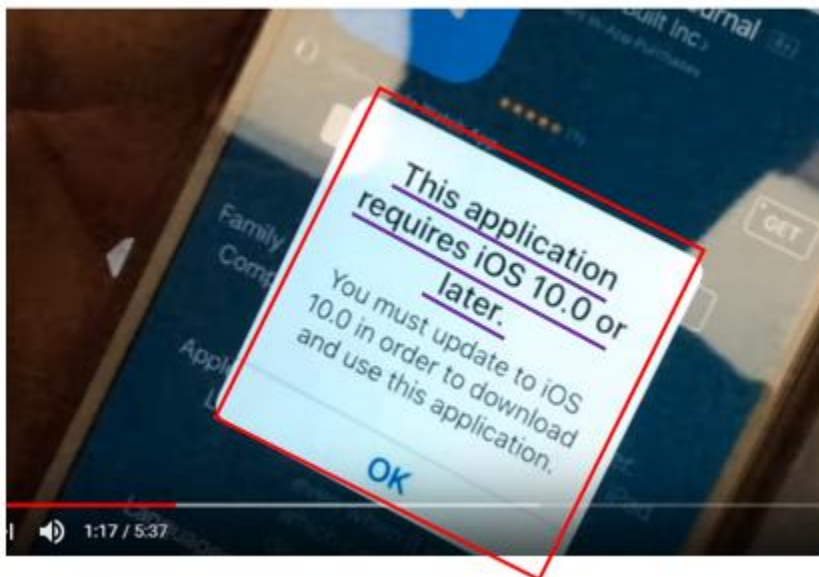
15. Using claim 1 merely as an illustrative example of Apple's infringement, the Accused Infringing Devices include functionality for performing all the steps of claim 1. iOS executing on an Accused Infringing Device, such as an iPhone, includes functionality that requests installation of an updated application via Apple's App Store.



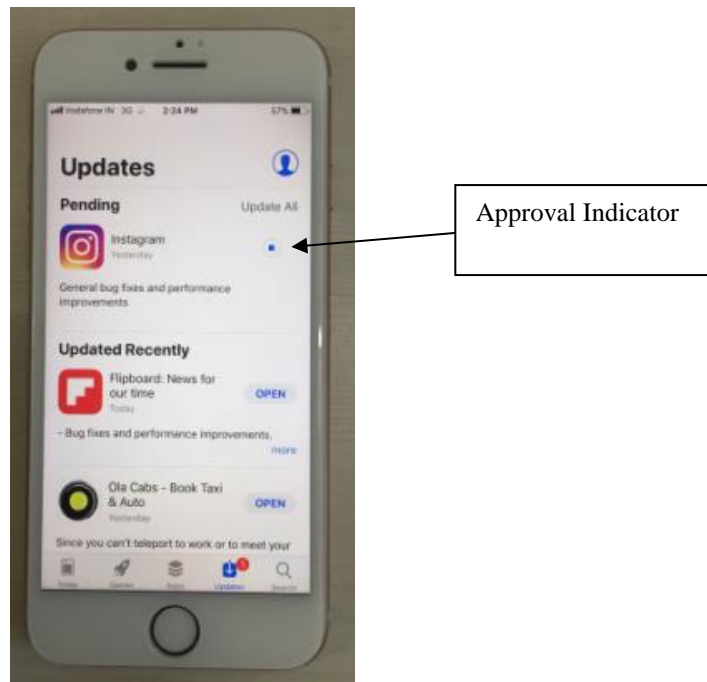
When an updated application is requested, functionality in iOS and/or an App Store server determines whether a component is required for the update. As one example, functionality in iOS and/or an App Store server determines requested application update requires a certain version of iOS in order to be installed.



iOS or the App Store server can determine the version of iOS running on the requesting device and compare that version to the required version. The Accused Infringing Devices generate information indicative of an approval or denial of the reconfiguration request based at least in part on the result of the comparison. For example, if the version of iOS is not compatible with the update requested, a message will be displayed on the requesting device.



However, if the version of the iOS on the requesting device is compatible, then an indicator will be displayed on the requesting device indicating approval of the update.



16. Apple has had notice of the '088 patent since at least the time of service of the Original Complaint. Apple has also be on notice of Uniloc's infringement allegations and theories of infringement since at least that date, and thus has known that its continued actions would infringe, contribute to the infringement of, and cause others to infringe the '088 patent.

17. Apple has been on notice of the '088 patent since, at the latest, the service of the original Complaint. Apple has also been on notice of Uniloc's infringement allegations and theory of infringement since that date, and thus has known that its continued actions would contribute to the infringement of claims of the '088 patent.

18. Apple has actively induced, and continues to actively induce, infringement by others, including customers using the Accused Infringing Devices, by encouraging them to use, and instructing them how to use, those devices that Apple has intentionally designed and

programmed to perform processor-implemented management and control of the reconfiguration of the devices whereby the devices infringe the asserted claims of the '088 Patent.

19. Apple's customers who use those devices in accordance with Apple's design and intentions infringe claims of the '088 Patent. Apple intentionally instructs its customers to infringe through training videos, demonstrations, brochures, specifications and installation and user guides, such as those located at:

- www.apple.com
- www.apple.com/shop/
- www.apple.com/iphone/compare/
- <https://www.apple.com/ios/app-store/>
- <https://www.apple.stackexchange.com/questions/135060/>
- <https://support.apple.com/en-us/>
- <https://developer.apple.com/app-store/review/guidelines/>
- https://www.apple.com/iphone-*/specs/ (*= model number)
- <https://support.apple.com/en-sg/HT204204>
- www.youtube.com/user/apple
- [www.apple.com/iphone/compare /](http://www.apple.com/iphone/compare/)
- www.apple.com/ipad-pro/specs/
- www.apple.com/ipad-9.7/specs/
- www.apple.com/ipad-mini-4/specs/

20. In its marketing and instructional materials, including those identified above, Apple specifically and intentionally instructs its customers to use the Apple Wireless Devices in

an infringing manner. Apple has intentionally designed and sells the Accused Infringing Devices to automatically operate using iOS in violation of the '088 Patent.

21. Apple intends and knows that its customers use the Accused Infringing Devices to operate using the iOS operating system as described above:

Source: <https://www.apple.com/shop/buy-iphone/iphone-8>

Source: <https://developer.apple.com/app-store/whats-new/>

Apple customers place a high value on products that are simple, refined, innovative, and easy to use, and that's what we want to see on the App Store. Coming up with a great design is up to you, but the following are minimum standards for approval to the App Store. And remember that even after your app has been approved, you should update your app to ensure it remains functional and engaging to new and existing customers. Apps that stop working or offer a degraded experience may be removed from the App Store at any time.

Source: <https://developer.apple.com/app-store/review/guidelines/>

When the Accused Infringing Devices are used as intended by Apple, Apple intentionally induces such infringement.

22. Apple has known and intended, since service of the original Complaint, that its continuing encouragement and instructions to perform those infringing acts would induce performance of the infringing acts by others, including customers. Despite that knowledge, and as evidence of its intent, Apple has refused to discontinue the inducing acts and refused to remove the infringing functionality from the Accused Infringing Devices.

23. Apple has also infringed, and continues to infringe, claims 1-4, and 6-8, 10-14, 16-18, and 20-21 of the '088 patent by offering to commercially distribute, commercially distributing, or importing the Accused Infringing Devices which include component or components that are used in practicing the processes, or using the systems, of the '088 patent, and constitute a material part of the invention. Apple knows portions of the Accused Devices to be especially made or especially adapted for use in infringement of the '088 patent, not a staple article, and not a commodity of commerce suitable for substantial non-infringing use. For example, software (the "infringing software component") is included in the Accused Infringing Devices and causes the control of the reconfiguration of the device as described above. The infringing software component is packaged with other software in the Accused Infringing Devices, is essential to the ability of the Accused Infringing Devices ability to carry out the

infringing functions, and has no substantial noninfringing use. Apple is thereby liable for infringement of the '088 Patent under 35 U.S.C. § 271(c).

24. Unless enjoined, Apple's continued actions will actively induce and contribute to the infringement of claims 1-4, and 6-8, 10-14, 16-18, and 20-21 of the '088 Patent.

25. Apple may have infringed the '088 Patent through other software and devices utilizing the same or reasonably similar functionality, including other versions of the Accused Infringing Devices.

26. Uniloc has been damaged by Apple's infringement of the '088 Patent.

PRAYER FOR RELIEF

Uniloc requests that the Court enter judgment against Apple:

- (A) declaring that Apple has infringed the '088 Patent;
- (B) awarding Uniloc its damages suffered as a result of Apple's infringement of the '088 Patent;
- (C) awarding Uniloc its costs, attorneys' fees, expenses, and interest, and
- (D) granting Uniloc such further relief as the Court finds appropriate.

Date: May 30, 2018

Respectfully submitted,

/s/ Kevin Gannon

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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 May 30, 2018.

/s/ Kevin Gannon

Kevin Gannon