

**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-00293-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. 6,836,654)

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

6. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 6,836,654 (“the ’654 Patent”), entitled ANTI-THEFT PROTECTION FOR A RADIOTELEPHONY DEVICE which issued on December 28, 2004. A copy of the ’654 Patent is attached as Exhibit A.

7. Uniloc USA is the exclusive licensee of the ’654 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 ’654 Patent describes in detail and claims in various ways inventions in systems and devices for improved blocking and unblocking of the operational mode of electronic devices such as cellphones, using timing and identifiers, developed by the inventor around 1999.

9. The ’654 Patent describes problems and shortcomings in the then-existing field of antitheft measures for portable telephones and describes and claims novel and inventive technological improvements and solutions to such problems and shortcomings. The technological improvements and solutions described and claimed in the ’654 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 '654 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 '654 Patent inventor.

11. The inventions claimed in the '654 Patent represent technological solutions to technological problems. The written description of the '654 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 that utilize antitheft measures. Such devices include: (1) iPhone, iPhone 3G, iPhone 4, iPhone 4S, iPhone 5, iPhone 5c, iPhone 5s, iPhone 6, iPhone 6 Plus, iPhone 6s, iPhone 6s, iPhone SE, iPhone 7, iPhone 7, Plus, iPhone 8, iPhone 8 Plus, iPhone X cellphones, and (2) iPad 2 CDMA, iPad 2 3G, iPad 3G, iPad 3 Cellular, iPad 4 Cellular, iPad Mini Cellular tablets (collectively, "Accused Infringing Devices").

13. The Accused Infringing Devices are mobile radiotelephony devices incorporating antitheft technology that utilizes timing and identification codes to block and unblock and unblock normal operation of the device.

14. Apple has infringed, and continues to infringe, claims of the '654 Patent in the United States, including claims 1-5, and 7, by making, using, offering for sale, selling and/or importing the Accused Infringing Devices in violation of 35 U.S.C. § 271(a).

15. Using claim 1 merely as an illustrative example of Apple's infringement, the Accused Infringing Devices include each and every element of claim 1. The Accused Infringing Devices include blocking means for preventing a normal operation of the mobile radiotelephony device, wherein the normal operation include a processing of outgoing calls. For example, the Accused Infringing Devices include a passcode security function that locks the phone and prevents the phone from being used, including to place outgoing calls, until the passcode is entered correctly, as seen below.

Use Touch ID on iPhone and iPad

Learn how to set up and use Touch ID, a fingerprint identity sensor that makes it easy for you to get into your device.

You can use Touch ID with an iPhone 5s or later, iPad (5th generation), iPad Pro, iPad Air 2, or iPad mini 3 or later.

See, e.g., <https://support.apple.com/en-in/HT201371>

Use a passcode with your iPhone, iPad, or iPod touch

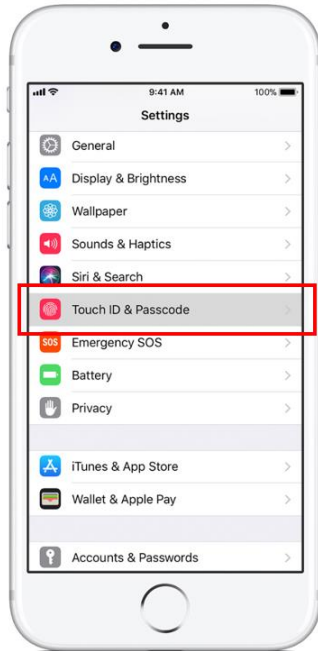
Learn how to set, use, and change a passcode on your iOS device.

Set a passcode on your iOS device to help protect your data. (If your device supports Touch ID, you can often use your fingerprint instead of your passcode. If your device supports Face ID, you can use face recognition instead of your passcode). Your device will require your passcode when you do the following:

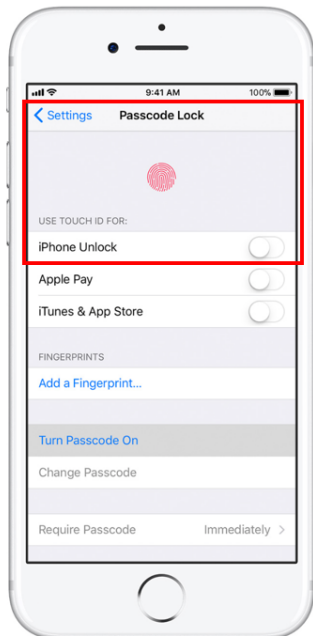
- | | |
|--|--------------------------------------|
| • Turn on or restart your device | • Erase your device |
| • Press the Home button or swipe up to unlock your device (you can change this) | • View or change passcode settings |
| | • Install iOS Configuration profiles |

Set up a passcode

1. Go to Settings > Touch ID & Passcode. On devices without Touch ID, go to Settings > Passcode. If you have an iPhone X, go to Settings > Face ID & Passcode.



2. Tap Turn Passcode On.



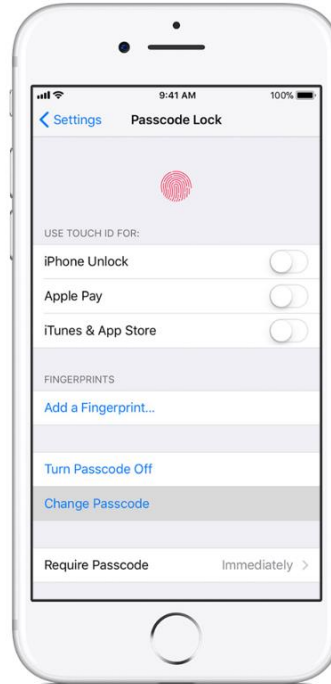
3. Enter a six-digit passcode. Or tap Passcode Options to switch to a four-digit numeric code, a custom numeric code, or a custom alphanumeric code.
4. Enter your passcode again to confirm it and activate it.

Change your passcode or passcode settings

Go to Settings > Touch ID & Passcode. On devices without Touch ID, go to Settings > Passcode. If you have an iPhone X, go to Settings > Face ID & Passcode.

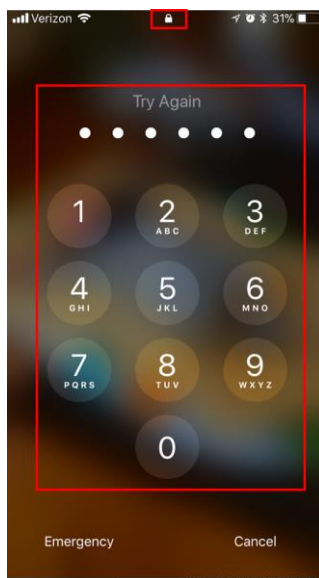
You'll find several settings and options:

- Turn Passcode Off: Tap this option to turn off your passcode.
- Change Passcode: Enter a new six-digit passcode. Or tap Passcode Options to switch to a four-digit numeric code, a custom numeric code, or a custom alphanumeric code.
- Require Passcode: By default with this setting, as soon as you lock your screen, you need to enter your passcode to unlock. If you don't want an immediate passcode requirement, change this setting. (For your security, if you use Touch ID or Apple Pay, you can't change the immediate passcode requirement).
- Allow Access When Locked: Use this option to allow access to some features when your device is locked, including [Today View](#), [Recent Notifications](#), [Siri](#), [Reply with Message](#), [Control Center](#), and [Wallet](#).
- Erase Data: Choose whether to erase your device automatically after ten failed passcode attempts. If you don't enable this option, your device will need to be restored in iTunes after ten failed attempts.

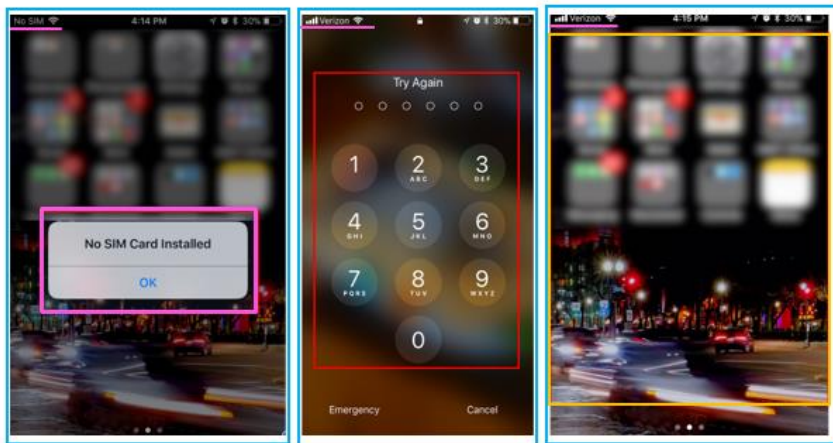


See, e.g., <https://support.apple.com/en-us/HT204060>.

After the passcode option has been enabled, access to the phone's normal operation is blocked until the correct passcode is entered as can be seen below.



16. The Accused Infringing Devices also include timing means for activating the blocking means in response to the mobile radiotelephony device being inactive during the normal operation of the mobile radiotelephony device for a defined period of time subsequent to a mounting of a linked user identification module inside the mobile radiotelephony device. As one non-limiting example, subsequent to a valid SIM card being inserted into the Accused Infringing Devices, at least when passcode functionality is enabled, access to the Accused Infringing Devices is blocked until a time period (e.g., 30 seconds, 1, 2, 3, 4 or 5 minutes) has passed since the last interaction, as illustrated below.





17. The Accused Infringing Devices also include deblocking means for permitting the normal operation of the mobile radiotelephony device in response to a supply of a deblocking code to the mobile radiotelephony device subsequent to the mounting of the linked user identification module inside the mobile radiotelephony device and subsequent to the defined period of time. For example, the normal operation of the Accused Infringing Devices is made available in response to a correctly entered passcode subsequent to the device being automatically locked, for example, as described in paragraph 17 above, or after a period of inactivity.

18. Others directly infringe the '654 patent. For example, Apple's customers using the Accused Infringing Devices infringe claims 1-5, and 7 when operating the Accused Infringing Devices to take advantage of the antitheft technology thereon that utilizes timing and identification codes to block and unblock and unblock normal operation of the device.

19. Apple has been on notice of the '654 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 '654 patent.

20. 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 operate by blocking and unblocking the operational mode of the devices using timing and identifiers whereby the devices infringe the asserted claims of the '654 Patent.

21. Apple's customers who use those devices in accordance with Apple's design and intentions infringe claims of the '654 Patent. Apple intentionally instructs its customers to infringe through training videos, demonstrations, brochures, specifications and installation and user guides, such as those located at:

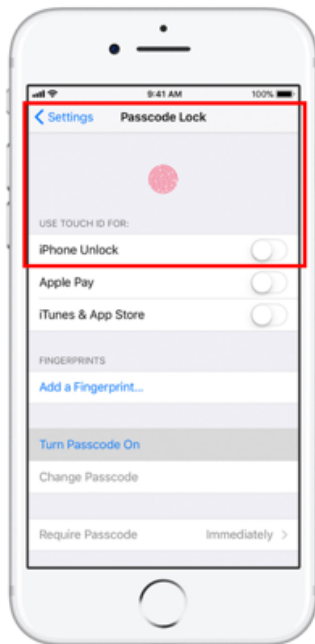
- www.apple.com
- <https://support.apple.com/en-us/>
- <https://support.apple.com/explore/messages>
- <https://www.apple.com/iphone-7/>
- <https://www.apple.com/iphone-8/>
- <https://support.apple.com/en-in/HT201371>
- <https://support.apple.com/en-us/HT204060>
- <https://discussions.apple.com/thread/>
- www.apple.com/business/docs/iOS_Security_Guide.pdf
- www.youtube.com/user/apple

- www.apple.com/iphone-x/specs/
- www.apple.com/iphone-8/specs/
- www.apple.com/iphone-7/specs/
- www.apple.com/iphone-6s/specs/

22. 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 in normal mode in compliance with the Bluetooth Low Energy 4.0 and above protocols in violation of the '654 Patent.

23. Apple intends and knows that its customers use the Accused Infringing Devices to operate as described above:

2. Tap Turn Passcode On.



3. Enter a six-digit passcode. Or tap Passcode Options to switch to a four-digit numeric code, a custom numeric code, or a custom alphanumeric code.

4. Enter your passcode again to confirm it and activate it.

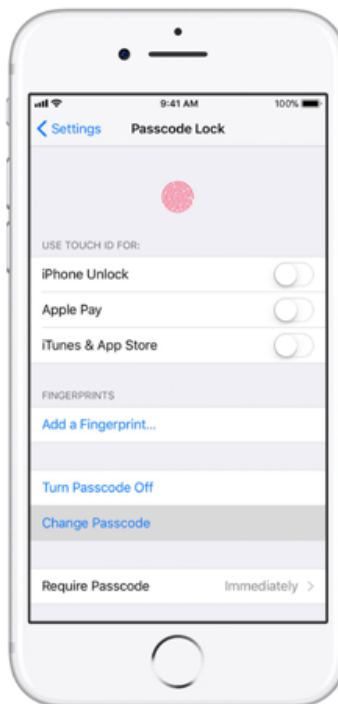
Source: <https://support.apple.com/en-us/HT204060>

Change your passcode or passcode settings

Go to Settings > Touch ID & Passcode. On devices without Touch ID, go to Settings > Passcode. If you have an iPhone X, go to Settings > Face ID & Passcode.

You'll find several settings and options:

- Turn Passcode Off: Tap this option to turn off your passcode.
- Change Passcode: Enter a new six-digit passcode. Or tap Passcode Options to switch to a four-digit numeric code, a custom numeric code, or a custom alphanumeric code.
- Require Passcode: By default with this setting, as soon as you lock your screen, you need to enter your passcode to unlock. If you don't want an immediate passcode requirement, change this setting. (For your security, if you use Touch ID or Apple Pay, you can't change the immediate passcode requirement).
- Allow Access When Locked: Use this option to allow access to some features when your device is locked, including [Today View](#), [Recent Notifications](#), [Siri](#), [Reply with Message](#), [Control Center](#), and [Wallet](#).
- Erase Data: Choose whether to erase your device automatically after ten failed passcode attempts. If you don't enable this option, your device will need to be restored in iTunes after ten failed attempts.



Source: <https://support.apple.com/en-us/HT204060>

Use a passcode with your iPhone, iPad, or iPod touch

Learn how to set, use, and change a passcode on your iOS device.

Set a passcode on your iOS device to help protect your data. (If your device supports Touch ID, you can often use your fingerprint instead of your passcode. If your device supports Face ID, you can use face recognition instead of your passcode). Your device will require your passcode when you do the following:

- | | |
|--|--------------------------------------|
| • Turn on or restart your device | • Erase your device |
| • Press the Home button or swipe up to unlock your device (you can change this) | • View or change passcode settings |
| | • Install iOS Configuration profiles |

Source: <https://support.apple.com/en-us/HT204060>

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

25. 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.

26. Apple has also infringed, and continues to infringe, claims 1-5, and 7 of the '654 patent by offering to commercially distribute, commercially distributing, or importing the Accused Infringing Devices which devices are used in practicing the processes, or using the systems, of the '654 patent, and constitute a material part of the invention. For example, the Accused Infringing Devices include software for causing operation of the antitheft features utilizing timing and identification codes to block and unblock and unblock normal operation of the device ("Infringing Software"), which is packaged with other software in the Accused Infringing Devices. Apple knows that the Infringing Software is especially made or especially adapted for use in infringement of the '654 patent, not a staple article, and not a commodity of commerce suitable for substantial non-infringing use. Apple is thereby liable for infringement of the '654 Patent under 35 U.S.C. § 271(c).

27. Apple has been on notice of the '654 Patent since, at the latest, the service of this complaint upon it. By the time of trial, Apple will have known and intended (since receiving such notice) that its continued actions would actively induce and contribute to the infringement of claims 1-5, and 7 of the '654 Patent.

28. Apple may have infringed the '654 Patent through other software and devices utilizing the same or reasonably similar functionality, including other versions of the Accused Infringing Devices.

29. Uniloc has been damaged by Apple's infringement of the '654 Patent.

PRAYER FOR RELIEF

Uniloc requests that the Court enter judgment against Apple:

- (A) declaring that Apple has infringed the '654 Patent;
- (B) awarding Uniloc its damages suffered as a result of Apple's infringement of the '654 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

Kevin Gannon
Massachusetts State Bar No. 640931
James J. Foster
Massachusetts State Bar No. 553285
Aaron Jacobs
Massachusetts State Bar No. 677545
PRINCE LOBEL TYE LLP
One International Place, Suite 3700
Boston, MA 02110
Tel: (617) 456-8000
Fax: (617) 456-8100
Email: kgannon@princelobel.com
Email: jfoster@princelobel.com
Email: ajacobs@princelobel.com

Edward R. Nelson III
ed@nelbum.com
Texas State Bar No. 00797142
Anthony M. Vecchione
anthony@nelbum.com
Texas State Bar No. 24061270
NELSON BUMGARDNER PC
3131 West 7th Street, Suite 300
Fort Worth, TX 76107
Tel: (817) 377-9111
Fax: (817) 377-3485

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