

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

UNILOC USA, INC. UNILOC
LUXEMBOURG S.A.; UNILOC 2017,
LLC,

Plaintiffs,

v.

AMAZON.COM, INC.; AMAZON WEB
SERVICES, INC.; AMAZON DIGITAL
SERVICES, LLC; AMAZON DIGITAL
SERVICES, INC.; AMAZON
FULFILLMENT SERVICES, INC.,

Defendant.

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§ CIVIL ACTION NO. 2:18-cv-00290
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§ PATENT CASE
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§ JURY TRIAL DEMANDED
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ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs, Uniloc USA, Inc., Uniloc 2017, LLC, and Uniloc Luxembourg S.A. (together “Uniloc”), as and for their complaint against defendants, Amazon.com, Inc., Amazon Web Services, Inc., Amazon Digital Services, LLC, Amazon Digital Services, Inc., and Amazon Fulfillment Services, Inc. (together “Amazon”) 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. Uniloc 2017 LLC (“Uniloc 2017”) is a Delaware limited liability company.

4. On information and belief, Amazon.com, Inc. is a Delaware corporation with its principal office at 410 Terry Avenue North, Seattle, WA 98109. Amazon can be served through its registered agent, Corporation Service Company, 2711 Centerville Rd., Wilmington, DE 19808. Amazon.com is the parent company of Amazon Web Services, Inc. and the primary operator and controller of the www.amazon.com commerce website. Amazon offers its products and/or services, including those accused herein of infringement, to customers and potential customers located in Texas and in the judicial Eastern District of Texas. As non-limiting examples, Amazon distributes the accused products through its distribution facilities in Denton County, TX. Among other business, Amazon is in the business of manufacturing and selling electronic goods sold in this judicial district.

5. On information and belief, Amazon Digital Services, Inc. is a Delaware corporation with its principal place of business at 410 Terry Avenue North, Seattle, WA98109. Amazon Digital Services, Inc. can be served through its registered agent, Corporation Service Company d/b/a CSC – Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218. Defendant Amazon Digital Services, Inc. resides in this judicial district. Defendant Amazon Digital Services, Inc. regularly conducts business in this district.

6. On information and belief, Defendant Amazon Digital Services, LLC is a Delaware limited liability company with a principal place of business at 410 Terry Avenue North, Seattle, Washington 98109. Amazon Digital Services, LLC can be served with process through its registered agent, the Corporation Services Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808. Defendant Amazon Digital Services, LLC resides in this judicial district. Defendant Amazon Digital Services, LLC regularly conducts business in this district.

7. On information and belief, Defendant Amazon Web Services, Inc. is a Delaware corporation with a principal place of business at 410 Terry Avenue North, Seattle, Washington 98109. Amazon Web Services, Inc. can be served with process through its registered agent, Corporation Service Company, at 211 E 7st., Ste 620, Austin, TX 78701. Defendant Amazon Web Services, Inc. resides in this judicial district. Defendant Amazon Web Services, Inc. regularly conducts business in this district.

8. On information and belief, Defendant, Amazon Fulfillment Services, Inc. is a Delaware corporation with a principal office located at 410 Terry Avenue North, Seattle, Washington. Defendant, Amazon Fulfillment Services, Inc. resides in this judicial district. Defendant, Amazon Fulfillment Services, Inc. regularly conducts business in this district.

9. Amazon has a regular and established place of business in this District, including, e.g., distribution facilities, employees, and other business. For example, Amazon's property was appraised on the property tax rolls by Denton County at \$248 million and \$428,000. <https://www.dentoncad.com/api/notices/notice/699143?year=2017;> <https://www.dentoncad.com/api/notices/notice/659411?year=2017;> <https://blog.taxjar.com/amazon-warehouse-locations/> (“#DFW6 – 940 W Bethel Road Coppell, TX 75019”); <https://trustfile.avalara.com/resources/amazon-warehouselocations/>. As another example, Amazon has its Amazon Fulfillment Center FTW3-4 at 15201 Heritage Pkwy, Fort Worth, TX 76177, which is in this District. Amazon also maintains data center(s) in Dallas/Fort Worth area, which is involved in the operation of the accused instrumentalities. Amazon offers its products and/or services, including those accused herein of infringement, to customers and potential customers located in Texas and in this District. Amazon derives financial benefits through its business in Texas and in this District. *See, e.g.,* <http://dir.texas.gov/View->

[Search/ContractsDetail.aspx?contractnumber=DIR-TSO-2733;](#)

<https://aws.amazon.com/contractcenter/cloud-services-for-the-state-of-texas/>.¹

JURISDICTION

10. 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).

11. This Court has personal jurisdiction over Amazon in this action because Amazon has committed acts within the Eastern District of Texas giving rise to this action and has established minimum contacts with this forum such that the exercise of jurisdiction over Amazon would not offend traditional notions of fair play and substantial justice. Amazon has committed and continues to commit acts of infringement in this District by, among other things, offering to sell and selling products and/or services that infringe the asserted patent.

12. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b). Amazon is registered to do business in Texas, and upon information and belief, Amazon has transacted business in the Eastern District of Texas and has committed acts of direct and indirect infringement in the Eastern District of Texas. Amazon has regular and established place of business in this District, as set forth above.

COUNT I

(INFRINGEMENT OF U.S. PATENT NO. 8,724,622)

13. Uniloc incorporates by reference the above paragraphs.

¹ See also, e.g., <http://www.costar.com/News/Article/Amazon-Establishes-Austin-HQ-inDomain-7/171852>; <http://www.datacenterknowledge.com/archives/2008/11/18/whereamazons-data-centers-are-located>; <http://www.govtech.com/computing/Texas-andAmazon-Unite-on-Cloud-Services-Contract.html>; http://publishingext.dir.texas.gov/portal/internal/contracts-and-services/Contracts/Contract%20DIR_TSO_2733.pdf.

14. Uniloc 2017 is the owner, by assignment, of U.S. Patent No. 8,724,622 (“the ‘622 Patent”), entitled SYSTEM AND METHOD FOR INSTANT VOIP MESSAGING by inventor Michael J. Rojas that issued on May 13, 2014. A true and correct copy of the ‘622 Patent is attached as Exhibit A hereto.

15. Uniloc USA is the exclusive licensee of the ‘622 Patent with ownership of all substantial rights therein, including the right to grant sublicenses, to exclude others, and to enforce, sue and recover damages for the infringement thereof.

16. Amazon has marketed and currently markets a voice and mobile messaging system called the Alexa Voice Service. The Alexa Voice Service has a client called Alexa Calling and Messaging and is associated with Alexa devices such as the Alexa mobile app, Echo, Echo Dot, and Echo Show. Among the features of the Alexa Voice Service is the sending and listening to voice messages from a conversation in the Alexa mobile app. These messages may be sent or received by the Alexa mobile app, Echo, Echo Dot, and/or Echo Show. The Alexa Voice Service uses Amazon’s Amazon Web Service platform for communication of voice messages.

17. Amazon has directly infringed, and continue to directly infringe one or more claims of the ‘622 Patent in this judicial district and elsewhere in Texas, including at least Claims 1 literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling one or more versions of the Alexa app and associated system during the pendency of the ‘622 Patent which software and associated servers perform instant voice messaging over Wi-Fi and the Internet between persons using cellphones and/or other devices capable of instant voice messaging; wherein digitized audio files are transmitted between a plurality of recipients on a packet switched network and a list of one or more currently

potential recipients is displayed on the device.

18. In addition, should the accused Alexa app and associated system be found to not literally infringe the asserted claims of the '622 Patent, the accused Alexa app and associated system would nevertheless infringe the asserted claims of the '622 Patent. More specifically, the accused Alexa app and associated system performs substantially the same function (instant voice messaging), in substantially the same way (via a digitized audio files in a client/server environment), to yield substantially the same result (delivering voice messages to available intended recipients). Amazon would thus be liable for direct infringement under the doctrine of equivalents.

19. Amazon has indirectly infringed and continues to indirectly infringe at least claim 1 of the '622 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the using, offering for sale, or selling, the Alexa app and associated system. Amazon's customers who obtain the Alexa app and associated system and operate such app in accordance with Amazon's instructions directly infringe one or more of the foregoing claims of the '622 Patent in violation of 35 U.S.C. § 271. Amazon 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:

- <https://www.amazon.com/gp/help/customer/>
- <https://itunes.apple.com/us/app>
- <https://play.google.com/store>
- <https://youtube.com>
- <https://www.viddler.com/file/p/f5347eea.mp4>

Amazon is thereby liable for infringement of the '622 Patent under 35 U.S.C. § 271(b).

20. Amazon has indirectly infringed and continues to indirectly infringe at least claim 1 of the '622 Patent by, among other things, contributing to the direct infringement by others including, without limitation customers using the Alexa app and associated system, 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 '622 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

21. For example, the Alexa app and associated system is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patent process. Furthermore, the Alexa app and associated system is a material part of the claimed inventions and upon information and belief is not a staple article or commodity of commerce suitable for substantial noninfringing use. Amazon is therefore, liable for infringement under 35 U.S.C. § 271(c).

22. Amazon will have been on notice of the '622 Patent since, at the latest, the service of this complaint upon Amazon. By the time of trial, Amazon will have known and intended (since receiving such notice) that its continued actions would actively induce, and contribute to, the infringement of one or more of the claims of the '622 Patent.

23. Amazon may have infringed the '622 Patent through other devices, systems, and software utilizing the same or reasonably similar functionality, including other versions of its Alexa app and associated system and/or other not-yet publicly released apps such as those referred to in reports as a contemplated app called "Anytime." Uniloc reserves the right to discover and pursue all such additional infringing software and devices.

24. Uniloc has been damaged by Amazon's infringement of the '622 Patent and such damage will continue unless and until Amazon is enjoined.

PRAYER FOR RELIEF

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

- (A) Declaring that Amazon has infringed the '622 Patent;
- (B) awarding Uniloc its damages suffered as a result of Amazon's infringement of the '622 Patent pursuant to 35 U.S.C. § 284;
- (C) awarding Uniloc its costs, attorneys' fees, expenses, and interest; and
- (D) granting Uniloc such other and 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.

Dated: July 13, 2018

Respectfully submitted,

/s/ James L. Etheridge

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