

and issued on January 23, 2007. A copy of the '487 Patent was attached as Exhibit A to the Original Complaint in this case.

5. ZTE (USA), Inc. is a New Jersey corporation having a principal place of business at 2425 North Central Expressway, Suite 800, Richardson, Texas 75080. ZTE (USA), Inc. may be served with process through its registered agent for service in Texas: Jing Li, 2425 North Central Expressway, Suite 800, Richardson, Texas 75080.

6. ZTE (TX), Inc. is a Texas corporation having a principal regular and established place of business at 2500 Dallas Parkway, Plano, Texas 75093. ZTE (USA), Inc. may be served with process through its registered agent for service in Texas: Ferguson, Braswell & Fraser, P.C., 2500 Dallas Parkway, Suite 501, Plano, Texas 75093.

7. ZTE makes, uses, offers for sale, sells and/or imports products into the United States for sale to customers in this judicial district and throughout the United States, including those accused of infringement herein.

JURISDICTION AND VENUE

8. 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 and 1338(a).

9. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(d) and 1400(b). ZTE has a regular and established place of business, and has committed acts of infringement, in this judicial district.

COUNT I (INFRINGEMENT OF U.S. PATENT NO. 7,167,487)

10. Uniloc incorporates paragraphs 1-9 above by reference.

11. The '487 Patent describes in detail and claims in various ways inventions in wireless networks having logic channels and transport channels developed by Koninklijke Philips Electronics N.V. for improved transmission of packets using a selection algorithm for determining, *inter alia*, transport format combinations.

12. The '487 Patent describes problems and shortcomings in the then-existing field of communications in wireless networks devices 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 '487 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.

13. The inventions claimed in the '487 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 systems and devices by the '487 Patent inventor.

14. The inventions claimed in the '487 Patent represent technological solutions to technological problems. The written description of the '487 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 differ markedly from and improved upon what may have been considered conventional or generic.

15. ZTE imports, uses, offers for sale, and sells in the United States electronic devices that operate in compliance with HSPA/HSPA+ standardized in UMTS 3GPP Release 6 and above, including those designated: ZTE nubia V18, ZTE nubia N3, ZTE Blade V9 Vita, ZTE

Blade V9, ZTE Tempo Go, ZTE Blade A3, ZTE Blade A6, ZTE Maven 2, ZTE Blade X, ZTE Axon M, ZTE nubia Z17s, ZTE nubia Z17 miniS, ZTE nubia Z17 lite, ZTE Blade Z Max, ZTE Blade Force, ZTE Tempo X, ZTE Blade A601, ZTE Grand X View 2, ZTE Blade V7 Plus, ZTE nubia N2, ZTE nubia M2, ZTE nubia M2 lite, ZTE nubia M2 Play, ZTE nubia Z17, ZTE Axon 7s, ZTE Max XL, ZTE nubia Z17 mini, ZTE Blade A520, ZTE nubia N1 lite, ZTE Blade V8 Min, ZTE Blade V8 Lite, ZTE Blade A2 Plus, ZTE Hawkeye, ZTE Blade V8 Pro, ZTE Blade V8, ZTE Axon 7 Max, ZTE Grand X4, ZTE Blade V7 Max, ZTE nubia Z11 mini S, ZTE Axon 7 mini, ZTE Warp 7, ZTE Zmax Pro, ZTE nubia N1, ZTE nubia Z11 Max, ZTE Axon 7, ZTE nubia Z11, ZTE Blade L110, ZTE Blade A110, ZTE Grand X Max 2, ZTE nubia Z11 mini, ZTE Blade L5 Plus, ZTE Blade V Plus, ZTE Blade A610, ZTE Blade A512, ZTE Blade A452, ZTE Blade V7, ZTE Blade A2, ZTE Blade A910, ZTE Blade V7 Lite, ZTE Axon Max, ZTE nubia Prague S, ZTE Grand X 3, ZTE Avid Plus, ZTE Blade X9, ZTE Blade X5, ZTE Blade X3, ZTE Axon, ZTE Blade S7, ZTE Axon mini, ZTE Zmax 2, ZTE Axon Elite, ZTE nubia My Prague, ZTE Axon Lux, ZTE Boost Max+, ZTE Blade A460, ZTE Blade D6, ZTE Axon Pro, ZTE Blade A410, ZTE Obsidian, ZTE Grand X2, ZTE Sonata 2, ZTE Blade Apex 3, ZTE Maven, ZTE Blade Q Pro, ZTE Blade Qlux 4G, ZTE nubia Z9, ZTE Blade S6 Plus, ZTE nubia Z9 Max, ZTE nubia Z9 mini, ZTE Open L, ZTE Grand S3, ZTE Blade L3 Plus, ZTE Blade L3, ZTE Blade G Lux, ZTE Blade G, ZTE V5 Lux, ZTE Blade S6, ZTE Imperial II, ZTE Grand X Max+, ZTE Star 2, ZTE Grand X Plus Z826, ZTE Speed, ZTE Grand S II, ZTE Grand S Pro, ZTE Zinger, ZTE Grand Xmax, ZTE Zmax, ZTE Blade Vec 4G, ZTE Blade Vec 3G, ZTE Kis 3 Max, ZTE nubia Z5S mini NX405H, ZTE nubia Z7, ZTE nubia Z7 Max, ZTE nubia Z7 mini, ZTE Blade L2, ZTE Kis 3, ZTE Blade G2, ZTE Redbull V5 V9180, ZTE Star 1, ZTE nubia X6, ZTE Grand Memo II LTE, ZTE Open C, ZTE Open II, ZTE Sonata 4G, ZTE Grand S II S291, ZTE nubia

Z5S, ZTE nubia Z5S mini NX403A, ZTE Grand S Flex, ZTE Blade Q Maxi, ZTE Blade Q, ZTE Blade Q Mini, ZTE Blade V, ZTE Blade G V880G, ZTE Grand X Pro, ZTE Grand X2 In, ZTE Grand X Quad V987, ZTE Blade III Pro, ZTE Geek V975, ZTE Grand Memo V9815, ZTE Open, ZTE Blade C V807, ZTE V81, ZTE Grand S, ZTE V889M, ZTE V887, ZTE Kis III V790, ZTE nubia Z5, ZTE Grand Era U895, ZTE Blade III, ZTE Grand X IN, ZTE Grand X LTE T82, ZTE Grand X V970, ZTE U880E, ZTE Light Tab 300, ZTE PF 100, ZTE Light Tab 3 V9S, ZTE Era, ZTE PF112 HD, ZTE Skate Acqua, ZTE Orbit, ZTE V880E, ZTE Nova 3.5, ZTE Style Q, ZTE V875, ZTE Blade II V880+, ZTE PF200, ZTE Light Tab 2 V9A, ZTE Light Tab V9C, ZTE FTV Phone, ZTE Tania, ZTE Avail, ZTE V9+, ZTE N721, ZTE Skate, ZTE Amigo, ZTE Racer II, ZTE U900, ZTE Libra, ZTE Blade, ZTE Racer, ZTE F951, ZTE Bingo ZTE Blade, ZTE Racer, ZTE F951 and ZTE Bingo (collectively the “Accused Infringing Devices”).

16. The Accused Infringing Devices implement networks having a first plurality of logic channels and a second plurality of transport channels associated by the MAC layer for sending and receiving packet units in accordance with HSPA/HSPA+ standardized in UMTS 3GPP Release 6 and above using a minimum bit rate criteria.

17. ZTE has infringed, and continues to infringe, claims of the '487 Patent in the United States, including claims 1, 3-6 and 12, by making, using, offering for sale, selling and/or importing the Accused Infringing Devices in violation of 35 U.S.C. § 271(a).

18. ZTE specifically, knowingly and intentionally incorporates into the Accused Infringing Devices components and software that enable the devices to operate automatically as described above to infringe the '487 Patent.

19. In its marketing, promotional and/or instructional materials, including those identified below, ZTE also specifically and intentionally instructs its customers to use the

Accused Infringing Devices in a manner that causes the devices to operate in accordance with HSPA/HSPA+ standardized in UMTS 3GPP Release 6 and above functionality.

20. ZTE has infringed, and continues to infringe, claims 1, 3-6 and 12 of the '487 Patent by actively inducing others to use, offer for sale, and sell the Accused Infringing Devices. ZTE's customers who use those devices in accordance with ZTE's instructions infringe claims 1, 3-6 and 12 of the '487 Patent, in violation of 35 U.S.C. § 271(a). ZTE intentionally instructs its customers to infringe through training videos, demonstrations, brochures, installation and user guides, and other instructional and marketing materials, such as those located at one or more of the following:

- www.zteusa.com
- [www.zteusa.com/\[device name, e.g. "blade-z-max"\]](http://www.zteusa.com/[device name, e.g.)
- www.zteusa.com/products/smartphone
- www.zteusa.com/products/all-phones
- www.zteusa.com/products/phones/carrier/straighttalk
- www.zteusa.com/compare/
- www.zteusa.com/support_page/
- www.zteusa.com/media/wysiwyg/ZTE-Avid/ZTE_Avid_TM_4G_User_Manual_English_-_PDF_-_1.25MB_.pdf
- www.zteusa.com/media/wysiwyg/zte-speed/ZTE_Speed_User_Guide_English_-_PDF_-_2.48MB_.pdf
- <https://zte-iqorsupport.custhelp.com/ci/fattach/get/4028/0/filename/ZTE+BLADE+FORCE+User+Manual+V1.2-0911.pdf>
- https://zte-iqorsupport.custhelp.com/ci/fattach/get/85/0/filename/ZTE_nubia_5_User_Guide_English_-_PDF_-_207KB_.pdf
- www.youtube.com/user/ZTEUSAInc

- www.youtube.com/user/ztedevice
- www.youtube.com/watch?v=z4AZL2F2oBo
- www.youtube.com/watch?v=aGXD3tLP9OU
- www.youtube.com/watch?v=B2PE86MRt3w
- www.youtube.com/watch?v=o4vKU-bC7Ew
- www.youtube.com/watch?v=Gm0V1csTUZc
- www.youtube.com/watch?v=WrlGgwdlxUU
- www.youtube.com/watch?v=fnWxgDAKCKc
- www.youtube.com/watch?v=J3X0ZMyYCHE
- www.youtube.com/watch?v=HWIjMdDKTx4

ZTE is thereby liable for infringement of the '487 Patent under 35 U.S.C. § 271(b).

21. ZTE has also infringed, and continues to infringe, at least claims 1, 3-6 and 12 of the '487 patent by offering to sell, selling and/or importing the Accused Infringing Devices knowing that the devices are used in practicing the processes, or using the systems, of the '487 patent, and constitute a material part of the invention. ZTE knows portions of the Accused Infringing Devices are especially made or especially adapted for use as described above to infringe the '487 patent, and not a staple article, or a commodity of commerce suitable for substantial noninfringing use. ZTE is thereby liable for infringement of the '487 Patent under 35 U.S.C. § 271(c).

22. ZTE will have been on notice of the '487 Patent since, at the latest, the service upon it of the Original Complaint in this case. ZTE has also been on notice of Uniloc's infringement allegations and theory of infringement since that date of service, and thus has known that its continued actions would induce and contribute to the infringement of claims of

the '487 Patent. Despite that knowledge, and as further evidence of its intent, ZTE has refused to discontinue its infringing acts and has also induced infringement by failing to remove the infringing functionality from the Accused Infringing Devices or otherwise place a non-infringing limit on their use.

23. By the time of trial, ZTE will have known and intended (since receiving such notice) that its continued actions would actively induce and contribute to the infringement of claims 1, 3-6 and 12 of the '487 Patent.

24. ZTE may have infringed the '487 Patent through other software and devices utilizing the same or reasonably similar functionality, including other versions of the Accused Infringing Devices.

25. Uniloc has been damaged by ZTE's infringement of the '487 Patent.

PRAYER FOR RELIEF

Uniloc requests that the Court enter judgment against ZTE:

- (A) declaring that ZTE has infringed the '487 Patent;
- (B) awarding Uniloc its damages suffered as a result of ZTE's infringement of the '487 Patent;
- (C) awarding Uniloc its costs, attorneys' fees, expenses, and interest, and
- (D) granting Uniloc such further relief as the Court finds appropriate.

DEMAND FOR JURY TRIAL

Uniloc demands trial by jury, under Fed. R. Civ. P. 38.

Date: August 8, 2018.

Respectfully submitted,

/s/ Kevin Gannon

Paul J. Hayes
Massachusetts State Bar No. 227000
Kevin Gannon
Massachusetts State Bar No. 640931
Aaron Jacobs
Massachusetts State Bar No. 677545
PRINCE LOBEL TYE LLP
One International Place, Suite 3700
Boston, MA 02110
Tel: (617) 456-8000
Email: phayes@princelobel.com
Email: kgannon@princelobel.com
Email: ajacobs@princelobel.com

Edward R. Nelson III
ed@nbafirm.com
Texas State Bar No. 00797142
Anthony M. Vecchione
anthony@nbafirm.com
Texas State Bar No. 24061270
Shawn Latchford
shawn@nbafirm.com
Texas State Bar No. 24066603
NELSON BUMGARDNER ALBRITTON 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 hereby 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 on August 8, 2018.

/s/ Kevin Gannon

Kevin Gannon