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UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNILOC 2017 LLC,

Plaintiff,

v.

HTC AMERICA, INC.,

Defendant.

Case No.: 2:18-cv-01727

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

Plaintiff, Uniloc 2017 LLC (“Uniloc”), for its Complaint against defendant, HTC America, Inc. (“HTC”), alleges as follows:

THE PARTIES

1. Uniloc is a Delaware limited liability company having addresses at 1209 Orange Street, Wilmington, Delaware 19801; 620 Newport Center Drive, Newport Beach, California 92660; and 102 N. College Avenue, Suite 303, Tyler, Texas 75702.

2. HTC is a Washington corporation having a regular and established place of business in Bellevue, Washington 98005 and may be served with process through its registered agent for service: Cogency Global Inc., 1780 Barnes Blvd. SW, Tumwater, Washington 98512.

3. HTC imports, uses, offers for sale and/or sells its products and/or services, including those accused herein of infringement, to customers and potential customers located in this judicial district.

1 **JURISDICTION**

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

5 **COUNT I**

6 (INFRINGEMENT OF U.S. PATENT NO. 6,993,049)

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

8 6. Uniloc holds all substantial rights, title and interest in U.S. Patent No. 6,993,049
9 entitled COMMUNICATION SYSTEM, which issued on January 31, 2006 (“the ’049 Patent”).
10 A copy of the ’049 Patent is attached as Exhibit A to this Complaint.

11 7. The ’049 Patent describes in detail and claims in various ways inventions in
12 systems and devices for improved communication of data therebetween, using polling of
13 secondary devices by a primary device.

14 8. The ’049 Patent describes problems and shortcomings in the then-existing field of
15 communications between devices and describes and claims novel and inventive technological
16 improvements and solutions to such problems and shortcomings.

17 9. The written description of the ’049 Patent describes in technical detail each of the
18 limitations of the claims, allowing a person of ordinary skill in the art to understand what the
19 limitations cover and how the non-conventional and non-generic combination of claim elements
20 differ markedly from and improved upon what may have been considered conventional or
21 generic.

22 10. HTC imports, uses, offers for sale, and sells in the United States electronic
23 devices that utilize Bluetooth Low Energy version 4.0 and above, including those identified in
24 Exhibit B to this Complaint (collectively “Accused Infringing Devices”).

25 11. The Accused Infringing Devices are electronic devices that implement
26 communications systems wherein a first or primary device broadcasts messages including data to
27 a second or secondary device to poll the second or secondary device that may respond to the first

1 or primary device when the second or secondary device has data to transmit to the first or
2 primary device.

3 12. The accused Bluetooth accessories, smartphones, computers etc. may each
4 comprise a primary station that implements the Bluetooth LE communications protocol and
5 broadcasts advertising message packets over pre-defined advertising channels to other Bluetooth
6 LE-capable devices, such as Bluetooth accessories, smartphones, computers etc., that comprise
7 secondary stations.

8 13. An Accused Infringing Device can enter an advertising state during which it
9 broadcasts advertising packets on advertising channels throughout advertising events. These
10 messages are received by other Accused Infringing Devices that have entered a scanning state.

11 14. The advertising message packets contain predetermined fields such as a Preamble,
12 Access address, PDU header and PDU payload. The advertising packet PDU header contains the
13 PDU type, length, etc. The PDU type field may be ADV_IND, in the case of a “connectable
14 undirected” message.

15 15. The PDU header field contains a PDU type field which, when read by a device in
16 a scanning state, indicates *inter alia* the presence and nature of the PDU payload data. The PDU
17 type field also allows a device in a scanning state to know whether the advertising event can be
18 responded to.

19 16. The PDU Payload includes the advertising payload data, which varies based on
20 the type of advertising message being sent. In the case of a connectable undirected advertising
21 message (“ADV_IND”), a device in a scanning state may respond back to the device in an
22 advertising state by sending a scan request (SCAN_REQ).

23 17. A SCAN_REQ packet also has predetermined fields, including the PDU type field
24 and payload, which when read by a device in an advertising state allows the device to respond
25 with a scan response message.

26 18. The advertising message packets (Adv) are transmitted on multiple advertising
27 channels, such as “Adv Ch(k)”, “Adv Ch(k+1)” and “Adv Ch(k+2)” during the first advertising

1 event, and on two advertising channels (“Adv Ch(k)” and “Adv Ch(k+1)”) during the second
2 advertising event.

3 19. HTC has infringed, and continues to infringe, claims 1-6, 8-9 and 11 of the ’049
4 Patent in the United States by making, using, offering for sale, selling and/or importing the
5 Accused Infringing Devices.

6 20. HTC specifically, knowingly and intentionally incorporates into the Accused
7 Infringing Devices components and software that enable the devices to operate automatically as
8 described above to infringe the ’049 Patent.

9 21. In its marketing, promotional and/or instructional materials, including those
10 identified below, HTC also specifically and intentionally instructs its customers to use the
11 Accused Infringing Devices in a manner that causes the devices to operate in accordance with
12 Bluetooth Low Energy version 4.0 and above functionality.

13 22. HTC has infringed, and continues to infringe, claims 1-6, 8-9 and 11 of the ’049
14 Patent by actively inducing others to use, offer for sale, and sell the Accused Infringing Devices.
15 HTC’s customers who use those devices in accordance with HTC’s design, intent and
16 instructions infringe claims 1-6, 8-9 and 11 of the ’049 Patent. HTC intentionally instructs its
17 customers to infringe through training videos, demonstrations, brochures, installation and user
18 guides, such as those located at one or more of the following:

- 19 • www.htc.com, including:
- 20 • www.htc.com/us/smartphones/
- 21 • www.htc.com/us/smartphones/htc-u11/buy/
- 22 • www.htcdev.com/devcenter/opensense-sdk/bluetooth-smart
- 23 • www.htc.com/us/support/
- 24 • www.htc.com/us/support/htc-12-plus/
- 25 • www.htc.com/us/support/htc-11/
- 26 • www.htc.com/us/support/htc-desire-530/
- 27 • www.htc.com/us/support/usereguide/htc-one-m8/

- 1 • www.htc.com/mea-en/support/htc-one-m9/howto/601572.html
- 2 • www.htc.com/sea/support/htc-desire-626/howto/638319.html
- 3 • dl4.htc.com/Web_materials/Manual/HTC_U11/US/HTC_U11_US_user_guide_O80.pdf
- 4
- 5 • dl4.htc.com/Web_materials/Manual/HTC_10/US/HTC_10_US_user_guide_O80.pdf

6 23. HTC has also infringed, and continues to infringe, claims 1-6, 8-9 and 11 of the
7 '049 patent by offering to sell, selling and/or importing the Accused Infringing Devices which
8 devices are used in practicing the processes and/or using the systems of the '049 patent, and
9 constitute a material part of the claimed communications systems. Upon receipt of this
10 Complaint, HTC will know that portions of the software that provide the Accused Infringing
11 Devices with the above-described functionality were especially designed and written solely to
12 implement such infringing functionality as described above.

13 24. HTC will have had notice of the '049 Patent since, at the latest, the service of this
14 complaint upon it. HTC will also have been on notice of Uniloc's infringement allegations and
15 theory of infringement since that date of service, and thus will have known that its continued
16 actions would cause the infringement of at least claims 1-6, 8-9 and 11 of the '049 Patent. If,
17 despite such knowledge, HTC refuses to discontinue its infringing acts, and continues to induce
18 infringement by failing to remove or distinguish what it will know upon receipt of this
19 Complaint to be infringing features of the Accused Infringing Devices or otherwise place a non-
20 infringing limit on their use, such actions will be evidence of HTC's intent to cause infringement
21 of the '049 Patent.

22 25. By the time of trial, HTC will have known and intended (since receiving such
23 notice) that its continued actions would actively induce and contribute to the infringement of
24 claims 1-6, 8-9 and 11 of the '049 Patent.

25 26. HTC may have infringed the '049 Patent through other software and devices
26 utilizing the same or reasonably similar functionality, including other versions of the Accused
27

1 Infringing Devices.

2 27. Uniloc has been damaged by HTC’s infringement of the ’049 Patent.

3 **PRAYER FOR RELIEF**

4 Uniloc requests that the Court enter judgment against HTC:

- 5 (A) declaring that HTC has infringed the ’049 Patent;
- 6 (B) awarding Uniloc its damages suffered as a result of HTC’s infringement of the
- 7 ’049 Patent;
- 8 (C) awarding Uniloc its costs, attorneys’ fees, expenses, and interest, and
- 9 (D) granting Uniloc such further relief as the Court finds appropriate.

10 **DEMAND FOR JURY TRIAL**

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

12 Dated this 30th day of November, 2018.

13 Respectfully submitted,

14 */s/ Al Van Kampen*

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