

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

UNILOC 2017 LLC, Plaintiff, v. BLACKBERRY CORPORATION, Defendant.	Case No. 3:18-cv-03068-N
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AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Uniloc 2017 LLC (“Uniloc”), for its Amended Complaint against defendant, Blackberry Corporation (“Blackberry”), alleges:

THE PARTIES

1. Uniloc 2017 LLC 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. Blackberry is a Delaware corporation, having a regular and established place of business in Irving, Texas.

JURISDICTION

3. 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).

CLAIM FOR PATENT INFRINGEMENT

4. Uniloc is the owner, by assignment, of U.S. Patent No. 6,993,049 (“the ’049 Patent”), entitled COMMUNICATION SYSTEM, which issued January 31, 2006, on an

application claiming priority to June 26, 2000. A copy of the '049 Patent was attached as Exhibit A to the original Complaint in this case.

5. The '049 Patent describes in detail, and claims in various ways, inventions in systems and devices developed by Koninklijke Philips Electronics N.V. for improved communication of data using polling of secondary devices by a primary device.

6. The '049 Patent describes problems and shortcomings in the then-existing field of communications between devices and describes and claims novel and inventive technological improvements and solutions to those problems and shortcomings.

7. The written description of the '049 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 combination of claim elements differed markedly from and improved upon what may have been considered conventional or generic.

8. Blackberry imports, uses, offers for sale, and sells electronic devices that utilize Bluetooth Low Energy version 4.0 and above, including those designated: BlackBerry KEY2, BlackBerry KEYOne, BlackBerry Z10, BlackBerry Priv, BlackBerry Motion, BlackBerry Passport, BlackBerry Z3, BlackBerry Aurora, BlackBerry Classic, BlackBerry Z30, BlackBerry DTEK60, BlackBerry Q5, BlackBerry Leap, BlackBerry DTEK50, BlackBerry Porsche Design P'9983, BlackBerry Classic Non Camera, BlackBerry Porsche Design P'9982 and Blackberry A10 (collectively, "Accused Infringing Devices").

9. The Accused Infringing Devices are electronic devices that implement communications systems where a first or primary device broadcasts messages including data to a second or secondary device to poll the second or secondary device that may respond to the first device when the second device has data to transmit to the first device.

10. Blackberry has infringed, and continues to infringe, claims of the '049 Patent by making, using, offering for sale, selling, and importing the Accused Infringing Devices. For example, as set forth in Exhibit 1 to this Amended Complaint, the Accused Infringing Devices incorporate each limitation of claim 1.

11. Blackberry 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 '049 Patent and knows and intends that its customers use the Accused Infringing Devices in a manner that infringes.

12. In its marketing, promotional, and instructional materials, such as, for example, the attached Exhibit 2, Blackberry intentionally instructs its customers to use the Accused Infringing Devices in a manner that causes the devices to send and receive data packets in accordance with Bluetooth Low Energy version 4.0 and above functionality.

13. Blackberry has infringed, and continues to infringe, the '049 Patent by actively inducing others to use, offer for sale, and sell the Accused Infringing Devices. Blackberry's customers who use those devices in accordance with Blackberry's instructions infringe the '049 Patent.

14. Blackberry has also infringed, and continues to infringe, the '049 patent by offering to sell, selling, and importing the Accused Infringing Devices, which devices are used in practicing the methods, or using the systems, of the '049 patent, and constitute a material part of the inventions. Blackberry knows portions of software used in the Accused Infringing Devices: are especially written or especially adapted for use as described above in what Blackberry now knows to be infringement of the '049 patent; are not staple articles or commodities of commerce; and are not suitable for substantial noninfringing use.

15. Blackberry will have been on notice of the '049 Patent since, at the latest, the service of the original complaint upon it in case no. 3:18-cv-01885. By the time of trial, Blackberry will have known and intended (since receiving such notice) that its continued actions would actively induce and contribute to the infringement of the '049 Patent by others, including its customers. Blackberry has also been on notice of Uniloc's infringement allegations and theory of infringement since that date, and thus will have known that its continued actions would induce and contribute to the infringement of claims of the '049 Patent. Despite that, and as further evidence of its intent, Blackberry has refused to discontinue its infringing acts and has also induced infringement by failing to remove or distinguish infringing features of the Accused Infringing Devices or otherwise place a non-infringing limit on their use.

16. By the time of trial, Blackberry will have known and intended (since receiving such notice) that its continued actions would actively induce and contribute to the infringement of the '049 Patent by its customers.

17. Blackberry may have infringed the '049 Patent through other software and devices utilizing the same or reasonably similar functionality, including other versions of the Accused Infringing Devices.

18. Uniloc has been damaged by Blackberry's infringement of the '049 Patent.

PRAYER FOR RELIEF

Uniloc requests that the Court enter judgment against Blackberry:

- (A) declaring that Blackberry has infringed the '049 Patent;
- (B) awarding Uniloc its damages suffered as a result of Blackberry's infringement of the '049 Patent;
- (C) awarding Uniloc its costs, attorneys' fees, expenses, and interest, and

(D) granting Uniloc such further relief as the Court finds appropriate.

Date: January 16, 2019

Respectfully submitted,

/s/ Kevin Gannon

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ATTORNEYS FOR THE PLAINTIFF

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 January 16, 2019.

/s/ Kevin Gannon

Kevin Gannon