

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

UNILOC 2017 LLC, Plaintiff, v. APPLE INC., Defendant.	CIVIL ACTION NO.: 1:18-cv-00991-LY
---	------------------------------------

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Uniloc 2017 LLC (“Uniloc”), for its complaint against defendant, Apple Inc. (“Apple”), 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. Apple is a California corporation, having a regular and established places of business at 12535 Riata Vista Circle and 5501 West Parmer Lane, Austin, 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. 7,020,252 (“the ’252 Patent”), entitled GROUP AUDIO MESSAGE BOARD, which issued March 28, 2006, claiming priority to an application filed September 25, 2000. A copy of the ’252 Patent was attached to the original Complaint as Exhibit A.

5. The ’252 Patent describes in detail, and claims in various ways, inventions in capturing, storing, and forwarding messages between multiple users in a wireless communal audio message system.

6. The written description of the ’252 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.

7. Apple imports, uses, offers for sale, and sells numerous electronic devices on which Apple has installed Apple’s iMessage group audio capability, which is used by Apple’s customers to send voice messages to multiple other parties, those devices including: iPhones, iPads, and iPod touch running iOS 5 or later and Mac products running OS X or later (“iMessage Devices”). The iMessage Devices communicate with Apple’s iMessage Servers that are used to receive, record, and store for playback voice iMessages sent by users of the iMessage Devices.

8. Using Apple’s Push Notification Service, Apple’s iMessage service allows users of the iMessage Devices to set up a connection with Apple iMessage Servers to record voice messages for multiple other iMessage users to listen to via WiFi and cellular data networks.

9. The Apple iMessage Servers offer users of the iMessage Devices the option of having voice iMessages expire after a set period, for example, two minutes after being accessed. When that parameter has been selected and the two minutes has expired, further access to the

recorded voice iMessage is denied and users of the iMessage Devices cannot have the recorded message played back.

10. Apple has infringed, and continues to infringe, at least claim 1 of the '252 Patent by making, importing, using, offering for sale, and selling the accused iMessage Servers and Devices ("Accused Infringing Devices").

11. Apple has infringed, and continues to infringe, the '252 Patent by making, using, offering for sale, selling, and importing the Accused Infringing Devices, as further described in the attached Exhibit 1 to this Amended Complaint, which shows the Accused Infringing Devices include every limitation of claim 1. Apple installed the infringing functionality in its products because it intended that its customers use that functionality.

12. Apple has been on notice of the '252 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 of service, as well as the date of its receipt of Exhibit 1 to this Amended Complaint.

13. Since receiving that notice, Apple has known the Accused Infringing Devices, which incorporate components and software that cause the devices to operate automatically as described above, infringe the '252 Patent.

14. Since receiving the notice of infringement in the original Complaint and the explanation of Uniloc's theory of infringement in Exhibit 1 to this Amended Complaint, Apple has known its customers were, and are, infringing the '252 Patent.

15. In its marketing, promotional, and instructional materials, Apple intentionally instructs its customers to use the Accused Infringing Devices in a manner that Apple knows causes them to infringe the '252 Patent.

16. Apple intentionally instructs its customers to use the Accused Infringing Products, in a manner that Apple knows infringes the '252 Patent, through training videos, demonstrations, brochures, installation and user guides, and other instructional and marketing materials, such as those shown on Exhibit 2 to this Amended Complaint.

17. Since receiving the notice of infringement described above, Apple has known that the above instructions instruct its customers how to use the Accused Infringing Devices to infringe the '252 Patent and encourage those customers to do so.

18. Apple has also infringed, and continues to infringe, the '252 Patent by offering to sell, selling, and importing the Accused Infringing Devices, which devices are used to practice the methods of the '252 Patent, and which constitute a material part of the invention. Apple knows portions of the software on the Accused Infringing Devices that provides the above functionality were especially written solely for use to implement what it now knows is infringement of the '252 Patent, as described above. Apple also now knows those portions have no use, other than for infringement.

19. Apple now knows, and has known since receiving the notice of infringement described above, its continued actions induce and contribute to infringement of the '252 Patent. Despite that, and as further evidence of its intent that its customers infringe, Apple has refused to discontinue its infringing acts, and has induced infringement by failing, since learning of Uniloc's infringement allegations, to remove or distinguish the infringing features of the Accused Infringing Devices or otherwise place a non-infringing limit on their use.

20. Apple may have infringed the '252 Patent through other software and devices utilizing the same or reasonably similar functionality, including other versions of the Accused Infringing Products.

21. Uniloc has been damaged by Apple's infringement of the '252 Patent.

PRAYER FOR RELIEF

Uniloc requests that the Court enter judgment against Apple:

- (A) declaring that Apple has infringed the '252 Patent;
- (B) awarding Uniloc its damages suffered as a result of Apple's infringement of the '252 Patent;
- (C) awarding Uniloc its costs, attorney fees, expenses, and interest; and
- (D) granting Uniloc such further relief as the Court finds appropriate.

Date: January 8, 2019

Respectfully submitted,

/s/ Kevin Gannon

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

Fax: (617) 456-8100

Email: kgannon@princelobel.com

Email: ajacobs@princelobel.com

Edward R. Nelson III

ed@nbafirm.com

Texas State Bar No. 00797142

NELSON BUMGARDNER ALBRITTON P.C.

3131 West 7th Street, Suite 300

Fort Worth, TX 76107

Tel: (817) 377-9111

Shawn Latchford
shawn@nbafirm.com
Texas State Bar No. 24066603
NELSON BUMGARDNER ALBRITTON P.C.
111 West Tyler Street
Longview, Texas 75601
Tel: (903) 757-8449
Fax: (903) 758-7397

ATTORNEYS FOR THE PLAINTIFF

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 on January 8, 2019.

/s/ Kevin Gannon

Kevin Gannon