

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

UNILOC USA, INC. and	§	
UNILOC LUXEMBOURG, S.A.,	§	
Plaintiffs,	§	Civil Action No. 1:17-cv-753
	§	
v.	§	PATENT CASE
	§	
BLACKBOARD, INC.,	§	
	§	
Defendant.	§	JURY TRIAL DEMANDED
	§	

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs, Uniloc USA, Inc. and Uniloc Luxembourg, S.A. (together “Uniloc”), as and for their first amended complaint against defendant, Blackboard, Inc. (“Blackboard”), 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 603, 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 Luxembourg owns a number of patents in the field of application management in a computer network.

4. Blackboard is a Delaware corporation and offers its products and services, including those accused herein of infringement, to customers and/or potential customers located in Texas and in the judicial Western District of Texas. Blackboard may be served with process through its registered agent in Texas: CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

JURISDICTION AND VENUE

5. 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).

6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1400(b). Blackboard has a regular and established place of business at 2000 East 6th Street, Suite 6, Austin, Texas 78702.

7. Blackboard is subject to this Court's jurisdiction pursuant to due process and/or the Texas Long Arm Statute due at least to its substantial business in this State and judicial district, including: (A) at least part of its past infringing activities, (B) regularly doing or soliciting business in Austin, Texas and/or (C) engaging in persistent conduct and/or deriving substantial revenue from goods and services provided to customers in Texas.

COUNT I

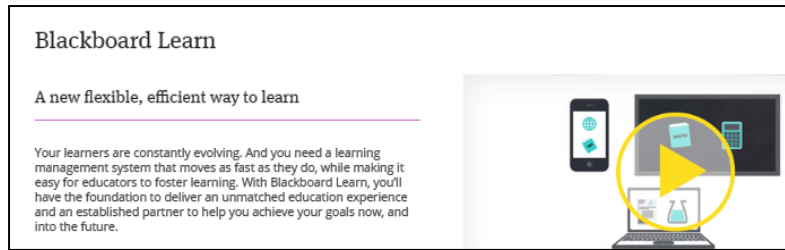
(INFRINGEMENT OF U.S. PATENT NO. 6,324,578)

8. Uniloc incorporates paragraphs 1-7 above by reference.

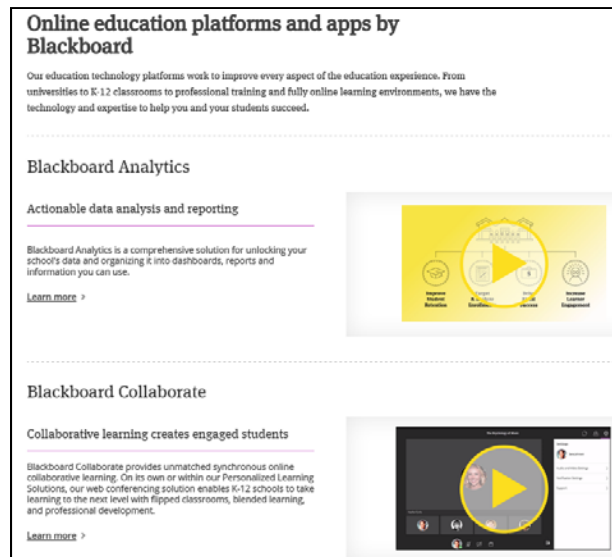
9. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 6,324,578 ("the '578 Patent"), entitled METHODS, SYSTEMS AND COMPUTER PROGRAM PRODUCTS FOR MANAGEMENT OF CONFIGURABLE APPLICATION PROGRAMS ON A NETWORK that issued on November 27, 2001. A true and correct copy of the '578 Patent is attached as Exhibit A hereto.

10. Uniloc USA is the exclusive licensee of the '578 Patent with ownership of all substantial rights therein, including the right to grant sublicenses, to exclude others, and to enforce, sue and recover past damages for the infringement thereof.

11. Upon information and belief, the following describes, at least in part, how the Blackboard software distribution and management system works:



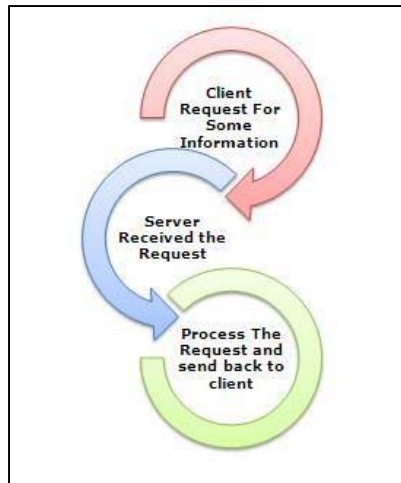
12. Upon information and belief, the following describes, at least in part, how the Blackboard software distribution and management system works:



13. Upon information and belief, the following describes, at least in part, how the Blackboard software distribution and management system works:



14. Upon information and belief, the following describes, at least in part, how the Blackboard software distribution and management system works:



15. Upon information and belief, the following describes, at least in part, how the Blackboard software distribution and management system works:

Device requirements

Last Updated: Mar 17, 2015 02:23PM PDT

Mobile Learn is supported on Android 2.3.5 + and on iOS 7+. If your device operating system version is older than the ones stated above, you will not be able to update to Mobile Learn or access the full capabilities of the app.

16. Upon information and belief, the following describes, at least in part, how the Blackboard software distribution and management system works:

Count on SaaS for a superior experience

With our SaaS deployment, Blackboard Learn is hosted, delivered, and managed using our state-of-the-art cloud-computing infrastructure. What does this mean for students, educators, and administrators? A smooth user experience that can further architecture goals.

17. Upon information and belief, the following describes, at least in part, how the Blackboard software distribution and management system works:

1) What are the benefits of SaaS deployment for Blackboard Learn?

Zero impact to your faculty and students during updates: With a cloud-computing environment, you benefit from continuous updates (new features, enhancements, fixes, etc.) with zero or minimal downtime for your educators and students.

Higher quality: A SaaS model allows us to deliver maintenance, updates, and fixes to production faster than ever before, and the cloud platform easily scales during periods of high usage.

Fast access to new features: A SaaS model allows us to deliver enhancements and new features faster than ever before, so your campus can have the latest and greatest features versus having to wait longer periods of time.

Peace of mind: Experienced Blackboard staff manages operations 24x7x365, so you can focus on other strategic, mission-critical projects.

18. Upon information and belief, the following describes, at least in part, how the Blackboard software distribution and management system works:

Learner Intelligence

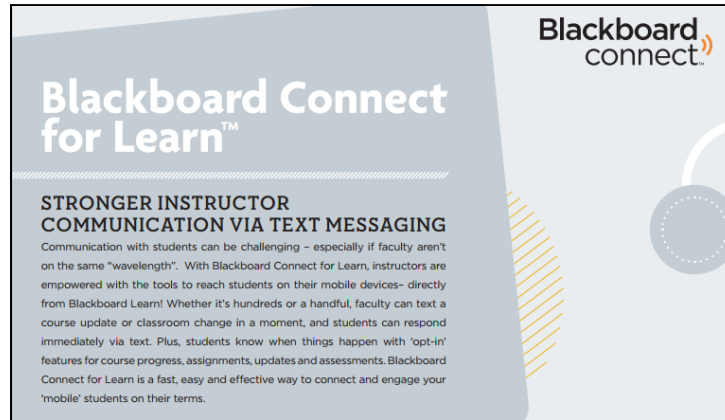
Blackboard Analytics for Learn combines extensive data from Blackboard Learn™ with student and course attributes from your SIS/ERP to create comprehensive reports and dashboards for students, instructors, staff, and leaders.

Engage students by providing them with information to monitor their performance in courses and to compare themselves to peers. Blackboard Analytics for Learn lets you easily create dashboards with the information students need. And students can access these dashboards from within their Blackboard Learn courses.

Give instructors better, faster, more reliable data that helps students succeed. Course dashboards and other reports from Blackboard Analytics for Learn are available to instructors in their courses.

Your staff has easy, self-service access to data that can give you an enterprise-level perspective. Gain insight into user activity, course design, and student grade and learning outcome data across departments and colleges. Be empowered to improve your use of the Blackboard Learn platform in support of teaching, learning, and student success.

19. Upon information and belief, the following describes, at least in part, how the Blackboard software distribution and management system works:



20. Upon information and belief, the following describes, at least in part, how the Blackboard software distribution and management system works:

SCORM player

Rustici Software's SCORM content player is integrated into Blackboard Learn to allow instructors to easily import their existing SCORM-compliant content into their course environment without having to recreate it. The SCORM player can track each section and whether learners have completed it, which is critical so that you know when your learners have reviewed important information.

21. Upon information and belief, the following describes, at least in part, how the Blackboard software distribution and management system works:

Blackboard e-Packs

Innovative e-learning begins with superior digital content. That's why we partner with content creators and distributors to provide easy ways for instructors in the global Blackboard community to supplement and enhance their online courses with rich digital content.

Designed for use within the Blackboard Learn platform, Blackboard e-Packs are text- and discipline-specific content solutions developed by leading educational content providers.

With over 25 content providers, 40 publishing imprints, 60 academic disciplines, thousands of titles, and countless possibilities in the Blackboard Content Network™, this innovative community makes it easy to add compelling, interactive instructional material to online courses.

22. Upon information and belief, the following describes, at least in part, how the Blackboard software distribution and management system works:

Manage content in Blackboard Drive

Transform the way you work with file based content with the Blackboard Learn™ Content Management module and Blackboard Drive™, your key to efficiency when working with content in Blackboard Learn.

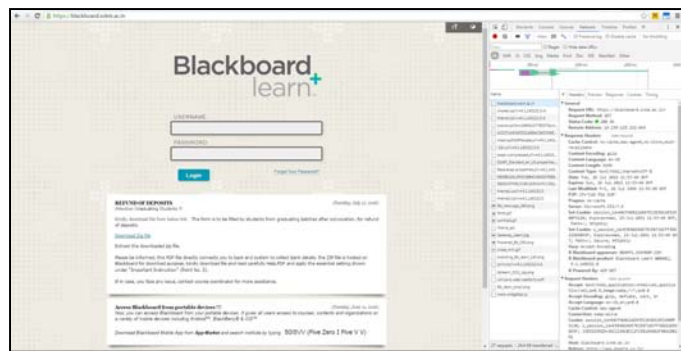
Driving efficiency

Blackboard Drive is a desktop application that lets you map a network drive to the content collection in Blackboard Learn. Consistently manage content with familiar tools like Windows® Explorer, Mac OS® X Finder and Microsoft Office, or from the web interface. No matter how you prefer to work with your course content, Blackboard Drive saves time and makes your life easier.

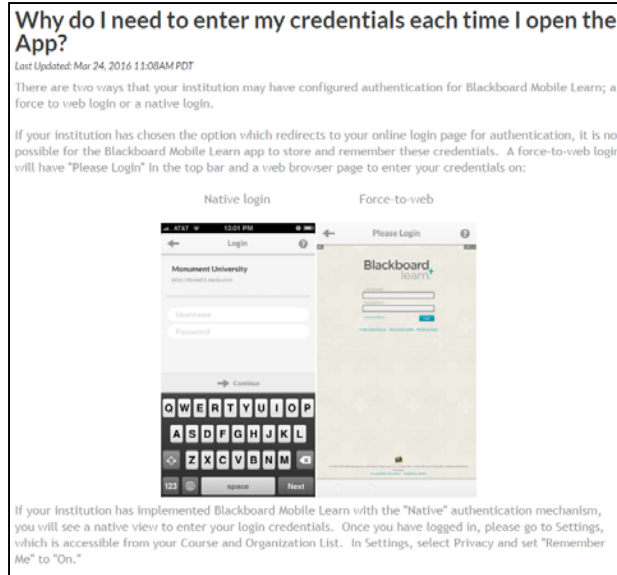
Easy editing from the web interface

With easy edit with Blackboard Drive, editing files on the web interface is just a three-step process – open, edit, save. Don't waste time saving and locating local files, and uploading them back to the server.

23. Upon information and belief, the following describes, at least in part, how the Blackboard software distribution and management system works



24. Upon information and belief, the following describes, at least in part, how the Blackboard software distribution and management system works:



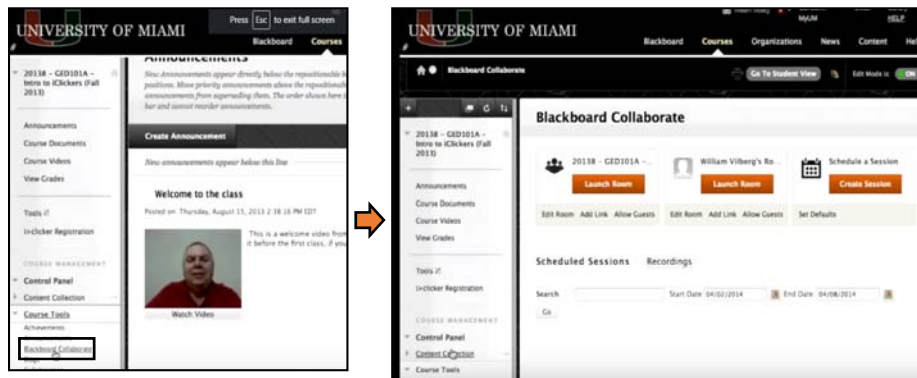
25. Upon information and belief, the following describes, at least in part, how the Blackboard software distribution and management system works:



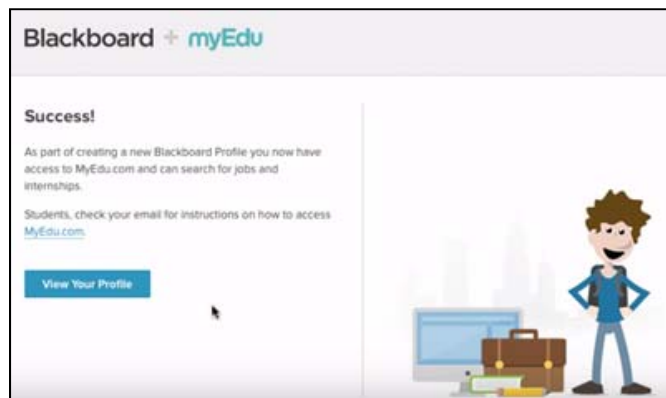
26. Upon information and belief, the following describes, at least in part, how the Blackboard software distribution and management system works:



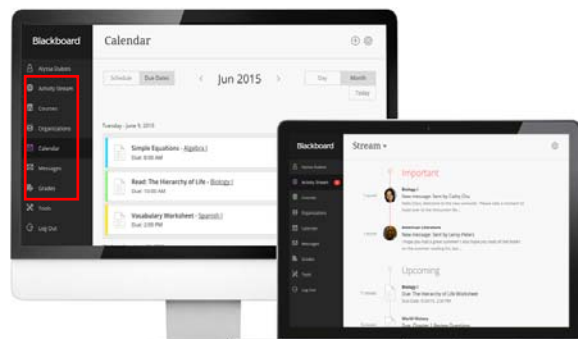
27. Upon information and belief, the following describes, at least in part, how the Blackboard software distribution and management system works:



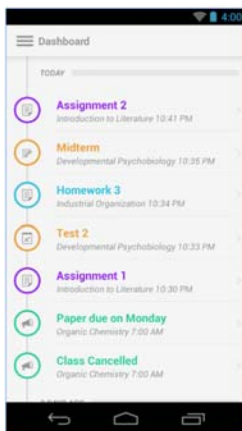
28. Upon information and belief, the following describes, at least in part, how the Blackboard software distribution and management system works:



29. Upon information and belief, the following describes, at least in part, how the Blackboard software distribution and management system works:



30. Upon information and belief, the following describes, at least in part, how the Blackboard software distribution and management system works:



31. Blackboard has directly infringed, and continues to directly infringe one or more claims of the '578 Patent in this judicial district and elsewhere in Texas, including at least claims 1-8, 10-11, 13-39, and 41-46 literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling the Blackboard software distribution and management system during the pendency of the '578 Patent which software and associated backend server architecture *inter alia* allows for installing application programs having a plurality of configurable preferences and authorized users on a network, distributing an application launcher program to a user, the user obtaining a set of configurable preferences, obtaining an administrator set of configurable preferences and executing the application program using the user and administrator sets of configurable preferences responsive to a request from a user.

32. In addition, should the Blackboard software distribution and management system be found to not literally infringe the asserted claims of the '578 Patent, the Blackboard software distribution and management system would nevertheless infringe the asserted claims of the '578 Patent. More specifically, the accused Blackboard software distribution and management system performs substantially the same function (making computer programs available for digital

download/management by an authorized user), in substantially the same way (via a launcher program in a client/server environment), to yield substantially the same result (executing the programs in response to a request from one or more users on a network). Blackboard would thus be liable for direct infringement under the doctrine of equivalents.

33. Blackboard has indirectly infringed and continues to indirectly infringe at least claims 1-8, 10-11, 13-39, and 41-46 of the '578 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the using, offering for sale, selling, or importing the Blackboard software distribution and management system. Blackboard's customers who use the Blackboard software distribution and management system in accordance with Blackboard's instructions directly infringe one or more of the forgoing claims of the '578 Patent in violation of 35 U.S.C. § 271. Blackboard directly and/or indirectly instructs its customers through training videos, demonstrations, brochures, installation and/or user guides, such as those located at the following:

- www.blackboard.com
- <https://en-us.help.blackboard.com>
- www.youtube.com

Blackboard is thereby liable for infringement of the '578 Patent under 35 U.S.C. § 271(b).

34. Blackboard has indirectly infringed and continues to indirectly infringe at least claims 1-8, 10-11, 13-39, and 41-46 of the '578 Patent in this judicial district and elsewhere in the United States by, among other things, contributing to the direct infringement by others including, without limitation customers using the Blackboard software distribution and management 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 '578 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

35. For example, the Blackboard software distribution and management system is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patent process. Furthermore, the Blackboard software distribution and management 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 non-infringing use. Blackboard is, therefore, liable for infringement under 35 U.S.C. § 271(c).

36. Blackboard will have been on notice of the '578 Patent since, at the latest, the service of the original complaint filed in the Eastern District of Texas on August 18, 2016. By the time of trial, Blackboard 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 claims 1-8, 10-11, 13-39, and 41-46 of the '578 Patent.

37. Blackboard may have infringed the '578 Patent through other software utilizing the same or reasonably similar functionality, including other versions of its software distribution and management system. Uniloc reserves the right to discover and pursue all such additional infringing software.

38. Uniloc has been damaged, reparably and irreparably, by Blackboard's infringement of the '578 Patent and such damage will continue unless and until Blackboard is enjoined.

COUNT II
(INFRINGEMENT OF U.S. PATENT NO. 7,069,293)

39. Uniloc incorporates paragraphs 1-38 above by reference.

40. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 7,069,293 (“the ’293 Patent”), entitled METHODS, SYSTEMS AND COMPUTER PROGRAM PRODUCTS FOR DISTRIBUTION OF APPLICATION PROGRAMS TO A TARGET STATION ON A NETWORK that issued on June 27, 2006. A true and correct copy of the ’293 Patent is attached as Exhibit B hereto.

41. Uniloc USA is the exclusive licensee of the ’293 Patent with ownership of all substantial rights therein, including the right to grant sublicenses, to exclude others, and to enforce, sue and recover past damages for the infringement thereof.

42. Blackboard has directly infringed, and continues to directly infringe one or more claims of the ’293 Patent in this judicial district and elsewhere in Texas, including at least claims 1, 12 and 17 literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling the Blackboard software distribution and management system during the pendency of the ’293 Patent which software and associated backend server architecture *inter alia* allow for providing an application program for distribution to a network server, specifying source and target directories for the program to be distributed, preparing a file packet associated with the program including a segment configured to initiate registration and distributing the file packet to the target on-demand server to make the program available for use by a client user.

43. In addition, should the Blackboard software distribution and management system be found to not literally infringe the asserted claims of the ’293 Patent, the product would nevertheless infringe the asserted claims of the ’293 Patent. More specifically, the accused software/system performs substantially the same function (distributing application programs to a target on-demand server on a network), in substantially the same way (via a client/server

environment to target on-demand users), to yield substantially the same result (making application programs available for use by target on-demand users). Blackboard would thus be liable for direct infringement under the doctrine of equivalents.

44. Blackboard has indirectly infringed and continues to indirectly infringe at least claims 1, 12 and 17 of the '293 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the using, offering for sale, selling, or importing the Blackboard software distribution and management system. Blackboard's customers who use the Blackboard software distribution and management system in accordance with Blackboard's instructions directly infringe one or more of the forgoing claims of the '293 Patent in violation of 35 U.S.C. § 271. Blackboard directly and/or indirectly instructs its customers through training videos, demonstrations, brochures, installation and/or user guides, such as those located at the following:

- www.blackboard.com
- <https://en-us.help.blackboard.com>
- www.youtube.com

Blackboard is thereby liable for infringement of the '293 Patent under 35 U.S.C. § 271(b).

45. Blackboard has indirectly infringed and continues to indirectly infringe at least claims 1, 12 and 17 of the '293 Patent in this judicial district and elsewhere in the United States by, among other things, contributing to the direct infringement by others including, without limitation customers using the Blackboard software distribution and management 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 '293 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

46. For example, the Blackboard software distribution and management system is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patent process. Furthermore, the Blackboard software distribution and management 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 non-infringing use. Blackboard is, therefore, liable for infringement under 35 U.S.C. § 271(c).

47. Blackboard will have been on notice of the '293 Patent since, at the latest, the service of the original complaint filed in the Eastern District of Texas on August 18, 2016. By the time of trial, Blackboard 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 claims 1, 12 and 17 of the '293 Patent.

48. Blackboard may have infringed the '293 Patent through other software utilizing the same or reasonably similar functionality, including other versions of its software distribution and management system. Uniloc reserves the right to discover and pursue all such additional infringing software.

49. Uniloc has been damaged, reparably and irreparably, by Blackboard's infringement of the '293 Patent and such damage will continue unless and until Blackboard is enjoined.

COUNT III
(INFRINGEMENT OF U.S. PATENT NO. 6,510,466)

50. Uniloc incorporates paragraphs 1-49 above by reference.

51. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 6,510,466 ("the '466 Patent"), entitled METHODS, SYSTEMS AND COMPUTER PROGRAM

PRODUCTS FOR CENTRALIZED MANAGEMENT OF APPLICATION PROGRAMS ON A NETWORK that issued on January 21, 2003. A true and correct copy of the '466 Patent is attached as Exhibit C hereto.

52. Uniloc USA is the exclusive licensee of the '466 Patent with ownership of all substantial rights therein, including the right to grant sublicenses, to exclude others, and to enforce, sue and recover past damages for the infringement thereof.

53. Blackboard has directly infringed, and continues to directly infringe one or more claims of the '466 Patent in this judicial district and elsewhere in Texas, including at least claims 15-20, 22-24, 28-33, 35-37, and 41-42 literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling the Blackboard software distribution and management system during the pendency of the '466 Patent which software and associated backend server architecture *inter alia* allow for installing application programs on a server, receiving a login request, establishing a user desktop, receiving a selection of one or more programs displayed in the user desktop and providing a program for execution.

54. In addition, should the Blackboard software distribution and management system be found to not literally infringe the asserted claims of the '466 Patent, the Blackboard software distribution and management system would nevertheless infringe the asserted claims of the '466 Patent. More specifically, the accused Blackboard software distribution and management system performs substantially the same function (selection of application programs), in substantially the same way (via an established user interface), to yield substantially the same result (providing programs for execution). Blackboard would thus be liable for direct infringement under the doctrine of equivalents.

55. Blackboard has indirectly infringed and continues to indirectly infringe at least claims 15-20, 22-24, 28-33, 35-37, and 41-42 of the '466 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the using, offering for sale, selling, or importing the Blackboard software distribution and management system. Blackboard's customers who use the Blackboard software distribution and management system in accordance with Blackboard's instructions directly infringe one or more of the forgoing claims of the '466 Patent in violation of 35 U.S.C. § 271. Blackboard directly and/or indirectly instructs its customers through training videos, demonstrations, brochures, installation and/or user guides, such as those located at the following:

- www.blackboard.com
- <https://en-us.help.blackboard.com>
- www.youtube.com

Blackboard is thereby liable for infringement of the '466 Patent under 35 U.S.C. § 271(b).

56. Blackboard has indirectly infringed and continues to indirectly infringe at least claims 15-20, 22-24, 28-33, 35-37, and 41-42 of the '466 Patent in this judicial district and elsewhere in the United States by, among other things, contributing to the direct infringement by others including, without limitation customers using the Blackboard software distribution and management 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 '466 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

57. For example, the Blackboard software distribution and management system is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patent process. Furthermore, the Blackboard software distribution and management 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 non-infringing use. Blackboard is, therefore, liable for infringement under 35 U.S.C. § 271(c).

58. Blackboard will have been on notice of the '466 Patent since, at the latest, the service of the original complaint filed in the Eastern District of Texas on August 18, 2016. By the time of trial, Blackboard 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 claims 15-20, 22-24, 28-33, 35-37, and 41-42 of the '466 Patent.

59. Blackboard may have infringed the '466 Patent through other software utilizing the same or reasonably similar functionality, including other versions of its software distribution and management system. Uniloc reserves the right to discover and pursue all such additional infringing software.

60. Uniloc has been damaged, reparably and irreparably, by Blackboard's infringement of the '466 Patent and such damage will continue unless and until Blackboard is enjoined.

PRAYER FOR RELIEF

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

- (A) that Blackboard has infringed the '578 Patent, the '293 Patent and the '466 Patent;
- (B) awarding Uniloc its damages suffered as a result of Blackboard's infringement of the '578 Patent, the '293 Patent and the '466 Patent;

(C) enjoining Blackboard, its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries and parents, and all others acting in concert or privity with it from infringing the '578 Patent, the '293 Patent and the '466 Patent;

(D) awarding Uniloc its costs, attorneys' fees, expenses and interest, and

(E) 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.

Date: August 11, 2017

Respectfully submitted,

/s/ Brent N. Bumgardner

Paul J. Hayes (Lead Attorney) (Pro Hac to Follow)

Massachusetts State Bar No. 227000

Kevin Gannon (Pro Hac to Follow)

Massachusetts State Bar No. 640931

Dean G. Bostock (Pro Hac to Follow)

Massachusetts State Bar No. 549747

Aaron Jacobs (Pro Hac to Follow)

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: dbostock@princelobel.com

Email: ajacobs@princelobel.com

Brent N. Bumgardner

Texas State Bar No. 00795272

brent@nelbum.com

Christopher G. Granaghan

Texas State Bar No. 24078585

chris@nelbum.com

NELSON BUMGARDNER PC

3131 West 7th Street, Suite 300

Fort Worth, TX 76107

Tel: (817) 377-9111

Fax: (817) 377-3485

ATTORNEYS FOR THE PLAINTIFFS