

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

UNILOC LUXEMBOURG S.A. and UNILOC
USA, INC.,

Plaintiffs,

v.

TEXAS INSTRUMENTS INCORPORATED,

Defendant.

§
§
§ CIVIL ACTION NO. 6:12-cv-227
§ (Consolidated Lead Case)

§
§ **JURY TRIAL DEMANDED**

UNILOC LUXEMBOURG S.A. and UNILOC
USA, INC.,

Plaintiffs,

v.

SOLARWINDS, INC.

Defendant.

§
§
§ CIVIL ACTION NO. 6:12-cv-228
§ (Consolidated for Pretrial Issues)

§
§ **JURY TRIAL DEMANDED**

UNILOC LUXEMBOURG S.A. and UNILOC
USA, INC.,

Plaintiffs,

v.

IPSWITCH, INC.

Defendant.

§
§
§ CIVIL ACTION NO. 6:12-cv-229
§ (Consolidated for Pretrial Issues)

§
§ **JURY TRIAL DEMANDED**

UNILOC LUXEMBOURG S.A. and UNILOC
USA, INC.,

Plaintiffs,

v.

ROSETTA STONE, LTD.,

Defendant.

§
§
§ CIVIL ACTION NO. 6:12-cv-230
§ (Consolidated for Pretrial Issues)

§
§ **JURY TRIAL DEMANDED**

UNILOC LUXEMBOURG S.A. and UNILOC
USA, INC.,

Plaintiffs,

v.

SOLARWINDS, INC. and SOLARWINDS
WORLDWIDE, LLC,

Defendants.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 6:12-cv-232
(Consolidated for Pretrial Issues)

JURY TRIAL DEMANDED

**PLAINTIFFS’ FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT AGAINST THE SOLARWINDS ENTITIES**

Plaintiffs Uniloc Luxembourg S.A. (“Uniloc Luxembourg”) and Uniloc USA, Inc. (“Uniloc USA”) (collectively, “Uniloc”) file this First Amended Complaint against SolarWinds, Inc. and SolarWinds Worldwide, LLC for infringement of U.S. Patent No. 7,024,696 (“the ’696 patent”).

THE PARTIES

1. Uniloc Luxembourg S.A. (“Uniloc Luxembourg”) is a corporation organized and existing under the laws of Luxembourg with its principal place of business at 15, rue Edward Steichen, L-2540, Luxembourg.

2. Uniloc USA, Inc. (“Uniloc USA”) is a Texas corporation with its headquarters and principal place of business at Legacy Town Center I, Suite 380, 7160 Dallas Parkway, Plano, Texas 75024. Uniloc USA also maintains a place of business at 315 North Broadway, Suite 307, Tyler, Texas 75702.

3. Uniloc Luxembourg and Uniloc USA are collectively referred to as “Uniloc.” Uniloc researches, develops, manufactures and licenses information security technology solutions, platforms and frameworks, including solutions for securing software applications and digital content. Uniloc’s patented technologies enable software and content publishers to

securely distribute and sell their high-value technology assets with minimum burden to their legitimate end users. Uniloc's technology is used in several markets, including software and game security, identity management, intellectual property rights management, and critical infrastructure security.

4. SolarWinds, Inc. ("SolarWinds, Inc.") is a Delaware corporation with its principal place of business in Austin, Texas. SolarWinds may be served with process through its registered agent, The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801. Upon information and belief, SolarWinds does business in the State of Texas and in the Eastern District of Texas.

5. SolarWinds Worldwide, LLC ("SolarWinds Worldwide") is Delaware limited liability company with its principal place of business in Austin, Texas. SolarWinds may be served with process through its registered agent, The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801. Upon information and belief, SolarWinds does business in the State of Texas and in the Eastern District of Texas.

6. SolarWinds, Inc. and SolarWinds Worldwide are collectively referred to as "SolarWinds" or "Defendants."

JURISDICTION AND VENUE

7. Uniloc brings this action for patent infringement under the patent laws of the United States, namely 35 U.S.C. §§ 271, 281, and 284-285, among others. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338(a), and 1367.

8. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, Defendants are deemed to reside in this judicial district, have committed acts of infringement in this judicial district, have purposely transacted business

involving their accused products in this judicial district and/or, have regular and established places of business in this judicial district.

9. Defendants are subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to their substantial business in this State and judicial district, including: (A) at least part of their infringing activities alleged herein; and (B) regularly doing or soliciting business, engaging in other persistent conduct, and/or deriving substantial revenue from goods sold and services provided to Texas residents.

COUNT I

(INFRINGEMENT OF U.S. PATENT NO. 7,024,696)

10. Uniloc incorporates paragraphs 1 through 9 herein by reference.

11. Uniloc Luxembourg is the owner, by direct assignment from the inventor, of the '696 patent, entitled "METHOD AND SYSTEM FOR PREVENTION OF PIRACY OF A GIVEN SOFTWARE APPLICATION VIA A COMMUNICATIONS NETWORK." A true and correct copy of the '696 patent is attached as Exhibit A.

12. Uniloc USA is the exclusive licensee of the '696 patent with ownership of all substantial rights in the '696 patent, including the right to grant sublicenses, exclude others and to enforce, sue and recover damages for past and future infringements.

13. The '696 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

14. SolarWinds is directly infringing one or more claims of the '696 patent in this judicial district and elsewhere in Texas, including at least claim 18, without the consent or authorization of Uniloc, by or through making, using, offering for sale, selling and/or importing

computer software that implements piracy prevention technology, including, without limitation, Engineer's Toolset v.10.

15. Uniloc has been damaged as a result of Defendants' infringing conduct described in this Count. Defendants are, thus, liable to Uniloc in an amount that adequately compensates it for Defendants' infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

JURY DEMAND

Uniloc hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

Uniloc requests that the Court find in its favor and against Defendants, and that the Court grant Uniloc the following relief:

- a. Judgment that one or more claims of the '696 patent has been infringed, either literally and/or under the doctrine of equivalents, by Defendants and/or by others to whose infringements Defendants have contributed and/or by others whose infringements have been induced by Defendants;
- b. Judgment that Defendants account for and pay to Uniloc all damages to and costs incurred by Uniloc because of Defendants' infringing activities and other conduct complained of herein;
- c. Judgment that Defendants account for and pay to Uniloc a reasonable, on-going, post judgment royalty because of Defendants' infringing activities and other conduct complained of herein;
- d. That Uniloc be granted pre-judgment and post-judgment interest on the damages caused by Defendants' infringing activities and other conduct complained of herein; and
- e. That Uniloc be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: October 30, 2012

Respectfully submitted,

/s/ Steven W. Hartsell

Barry J. Bumgardner

Lead Attorney

Texas State Bar No. 00793424

Steven W. Hartsell

Texas State Bar No. 24040199

NELSON BUMGARDNER CASTO, P.C.

3131 West 7th Street, Suite 300

Fort Worth, Texas 76107

Phone: (817) 377-9111

Fax: (817) 377-3485

James Etheridge

Texas Bar No. 24059147

ETHERIDGE LAW GROUP, PLLC

2600 E. Southlake Blvd., Suite 120 / 324

Southlake, Texas 76092

Telephone: (817) 470-7249

Facsimile: (817) 887-5950

Jim@EtheridgeLaw.com

T. John Ward, Jr.

Texas State Bar No. 00794818

J. Wesley Hill

Texas State Bar No. 24032294

WARD & SMITH LAW FIRM

P.O. Box 1231

1127 Judson Road, Ste. 220

Longview, Texas 75606-1231

(903) 757-6400

(903) 757-2323 (fax)

jw@wsfirm.com

Eric M. Albritton
Texas State Bar No. 00790215
ALBRITTON LAW FIRM
P.O. Box 2649
Longview, TX 75606
(903) 757-8449
(903) 758-7397 (fax)
ema@emafirm.com

**Attorneys for Plaintiffs
Uniloc Luxembourg S.A. and
Uniloc USA, Inc.**

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of October 2012, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Eastern District of Texas, Tyler Division, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

/s/ Steven W. Hartsell