

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

UNILOC USA, INC. and UNILOC LUXEMBOURG S.A.,	§	
	§	
Plaintiffs,	§	CIVIL ACTION NO. 6:13-cv-266
	§	
	§	JURY TRIAL DEMANDED
	§	
v.	§	
	§	
SOLARWINDS WORLDWIDE, LLC and SOLARWINDS, INC.,	§	
	§	
Defendants.	§	

PLAINTIFFS’ ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs Uniloc USA, Inc. (“Uniloc USA”) and Uniloc Luxembourg S.A. (“Uniloc Luxembourg”) (collectively, “Uniloc”) file this Original Complaint against Defendants for infringement of U.S. Patent No. 5,496,216 (“the ’216 patent”).

THE PARTIES

1. 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 102 North College, Suite 806, Tyler, Texas 75702.

2. Uniloc Luxembourg S.A. (“Uniloc Luxembourg”) is a Luxembourg public limited liability company with its principal place of business at 75, Boulevard Grande Duchesse Charlotte, L-1331, Luxembourg .

3. 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. On information and belief, Defendant SolarWinds Worldwide, LLC (dba SolarWinds) is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 3711 South MoPac Expressway Building Two, Austin, Texas, 78746. This defendant has appointed CT Corporation System, 350 North St. Paul Street, Suite 2900, Dallas, Texas 75201 as its agent for service of process. SolarWinds Worldwide, LLC regularly conducts business in this jurisdiction.

5. On information and belief, Defendant SolarWinds, Inc., is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 3711 South MoPac Expressway Building Two, Austin, Texas, 78746. This defendant has appointed CT Corporation System, 350 North St. Paul Street, Suite 2900, Dallas, Texas 75201 as its agent for service of process. SolarWinds, Inc. regularly conducts business in this jurisdiction.

6. Upon information and belief, SolarWinds Worldwide and LLC SolarWinds, Inc. (collectively "SolarWinds" or "Defendants") do business in the State of Texas and in the Eastern District of Texas.

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 instrumentality 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 its 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. 5,490,216)

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

11. Uniloc Luxembourg is the owner, by assignment, of the '216 patent, entitled "SYSTEM FOR SOFTWARE REGISTRATION." A true and correct copy of the '216 patent is attached as Exhibit A.

12. Uniloc USA is the exclusive licensee of the '216 patent with ownership of all substantial rights in the '216 patent, including the right to grant sublicenses, exclude others and to enforce, sue and recover damages for past and future infringements.

13. The '216 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

14. Defendants are directly infringing one or more claims of the '216 patent in this judicial district and elsewhere in Texas, including at least claim 19, without the consent or

authorization of Uniloc, by or through making, using, offering for sale, selling and/or importing a system, device and/or method for reducing software piracy, reducing casual copying and/or reducing the unauthorized use of software, including without limitation Defendants' product activation system and process that permits customers to activate and/or register software (the "accused instrumentality"). Upon information and belief, multiple SolarWinds' products utilize the accused instrumentality, including, but not limited to the exemplary product titled Engineer's Toolset v10.

15. SolarWinds also may be infringing through other product activation systems and processes that permit customers to activate and/or register software not presently known to Uniloc. Uniloc reserves the right to discover and pursue relief against all infringing instrumentalities.

16. 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.

17. Any allegation of infringement against any defendant herein was not knowingly made on the basis of its use, sale, offer for sale, making or importing of any product, software, system, method or service provided by Flexera Software LLC or Rovi Solutions Corporation or any of their present or former affiliates or predecessors (including Flexera Software, Inc. Acresto Software Inc., Installshield Software Corporation, Flexco Holding Company, Inc., Installshield Co Inc., Globetrotter Software, Inc., C-Dilla Limited and Macrovision Corporation) (each a "Licensee Product"), including any product, software, system, method or service incorporating or using the activation, licensing, or registration functionality provided by such Licensee Product.

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 '216 patent has been infringed, either literally and/or under the doctrine of equivalents, 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: March 21, 2013

Respectfully submitted,

/s/ James L. Etheridge w/permission Wesley Hill

James L. Etheridge

Lead Attorney

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