IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

UNILOC USA, INC. and UNILOC LUXEMBOURG S.A.,	§ § § §	CIVIL ACTION NO. 2:17-cv-231-JRG
Plaintiffs,	§ § §	**JURY TRIAL DEMANDED**
v.	§ §	
GOOGLE, INC.,	§ §	
Defendant.	§ § §	

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs, Uniloc USA, Inc. and Uniloc Luxembourg, S.A. (together "Uniloc"), as and for their original complaint against defendant, Google, Inc. ("Defendant"), 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 several patents in the field of text/voice instant messaging.

4. Upon information and belief, Defendant is a Delaware corporation having a principal place of business in Mountain View, California and offers its products, including those accused herein of infringement, to customers and/or potential customers located in Texas and in the judicial Eastern District of Texas. Among other things, Defendant engages in marketing

1

activities that promote the use of the Google Allo app and its associated system. Defendant may be served with process through its registered agent: Corporation Service Company, 2711 Centerville Road, Ste. 400, Wilmington, DE 19808.

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, 1338(a) and 1367.

6.   Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(c) and 1400(b). Upon information and belief, Defendant is deemed to reside in this judicial district, has committed acts of infringement in this judicial district, and/or has purposely transacted business involving the accused products in this judicial district, including sales to one or more customers in Texas.

7.   Defendant 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 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. 8,724,622)

8.   Uniloc incorporates by reference the above paragraphs.

9.   Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 8,724,622 ("the '622 Patent"), entitled SYSTEM AND METHOD FOR INSTANT VOIP MESSAGING that issued on May 13, 2014. A true and correct copy of the '622 Patent is attached as Exhibit A hereto.
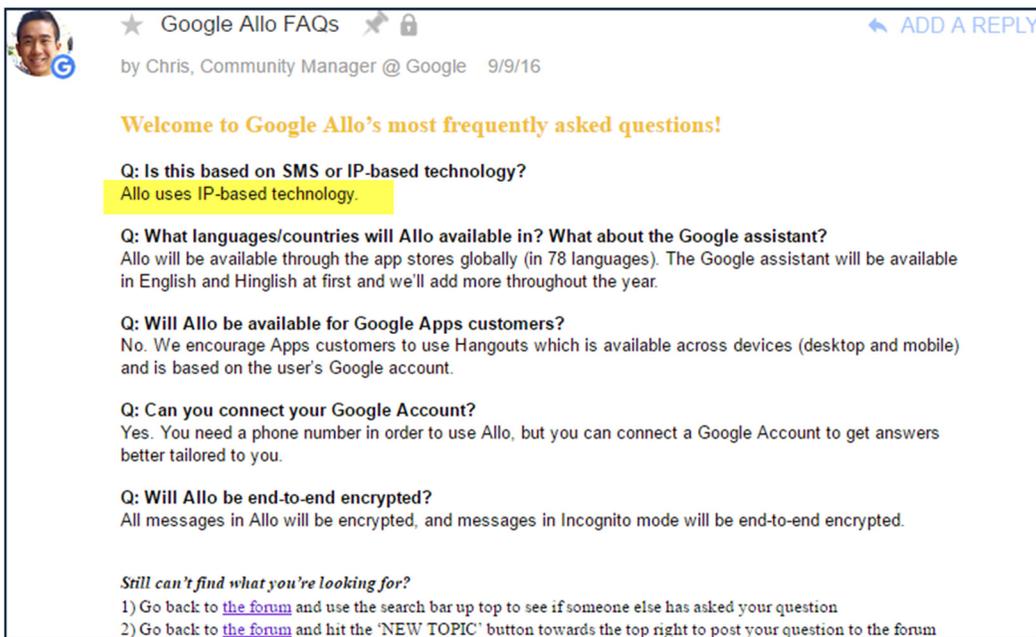
10.   Uniloc USA is the exclusive licensee of the '622 Patent with ownership of all substantial rights therein, including the right to grant sublicenses, to exclude others, and to enforce, sue and recover past damages for the infringement thereof.

11.   Defendant has marketed and currently markets a voice and mobile messaging application (or "app") under the name "Allo" which can be downloaded to a mobile device through sites such as Google Play and the Apple App Store and is also pre-installed and sold on certain mobile devices. Defendant also has systems that support Allo.

12.   Upon information and belief, the following describes, at least in part, how certain aspects of a representative sample of Defendant's Allo app and associated system work.

13.   Google has an instant voice messaging system for delivering instant messages over a packet-switched network. This instant voice message system client is called Allo.

14.   Allo is an IP-based technology as opposed to SMS.

Source: https://productforums.google.com/forum/#!topic/allo/Vz6aQ4jZcUQ

15.   A chat in Allo may be started as detailed below:

Start a chat

1. Open Allo > New Chat 🗩.

2. From the Contacts list, tap the name of the person who you want to chat with. You can also search for the person's name or number.

   a. **Allo contacts**: Contacts who have Allo or can be reached using an app preview message.

   b. **Phone contacts**: Contacts who don't have Allo. You can invite your friends to use Allo or chat with them using an SMS message.

3. For phone contacts, choose an option:

   a. **Invite**: Your default SMS app will open with a pre-loaded invitation message that you can edit if you want.

   b. **SMS**: Choose one of the following:

     • **Chat or Add via SMS**: Create a group chat or send your Allo message through a free SMS message using Google. Your contact can respond to you directly through the SMS message.

     • **Invite to Allo**: Ask a friend to download Allo. Your default SMS app will open with a pre-loaded invitation message.

4. Type or edit your message, and tap Send ➤.

Source: https://support.google.com/allo/answer/6376089?hl=en&ref_topic=6376118
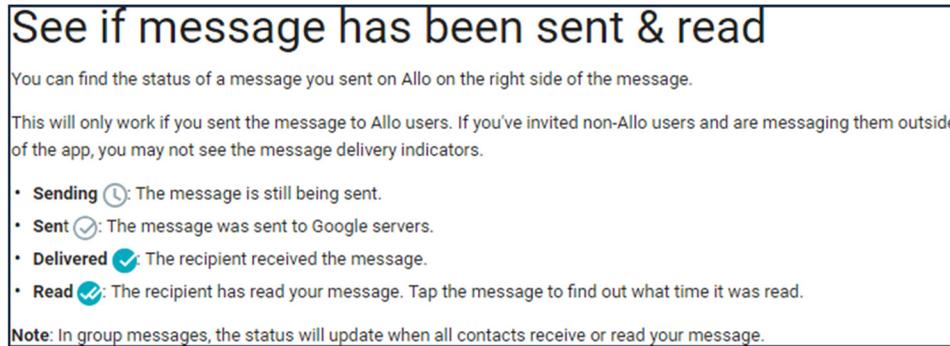
Source: http://beebom.com/how-use-google-allo-smart-messaging-app/
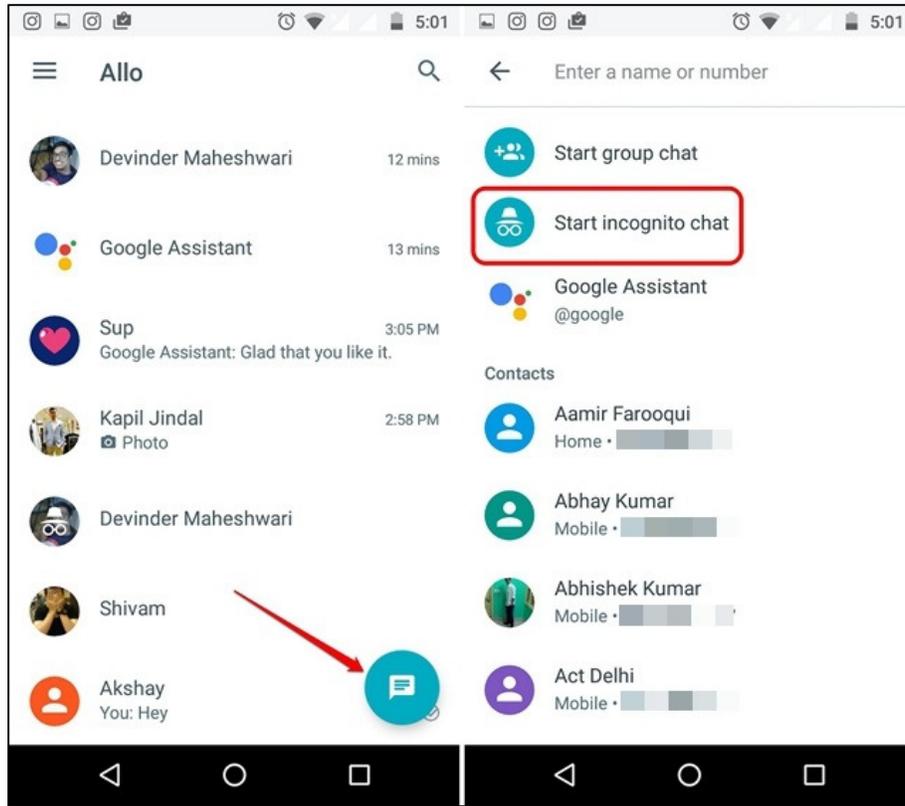
16.   In Allo, one may hold down the microphone icon to record an audio message as detailed below:
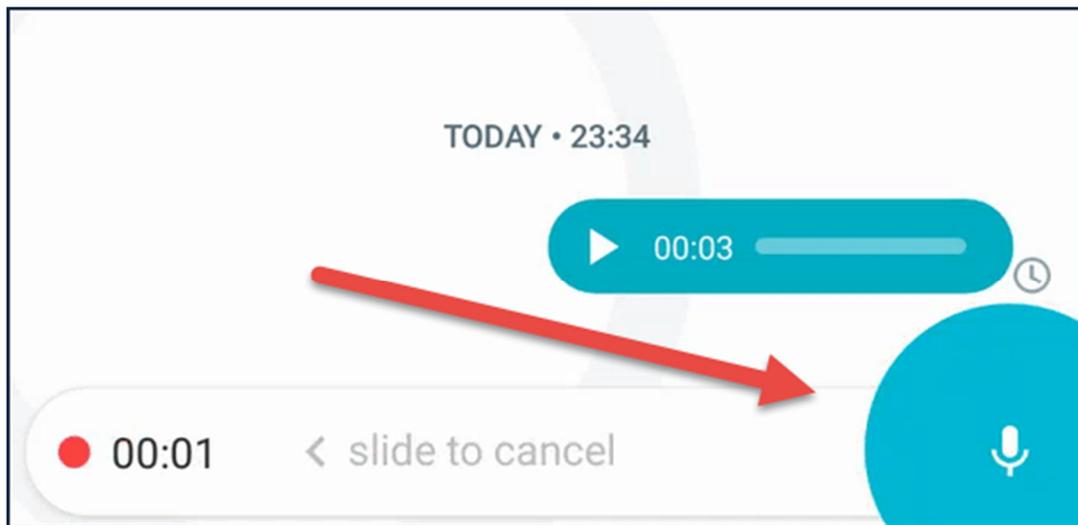
17.   Certain indicators, detailed below, show whether the message has been sent and read.
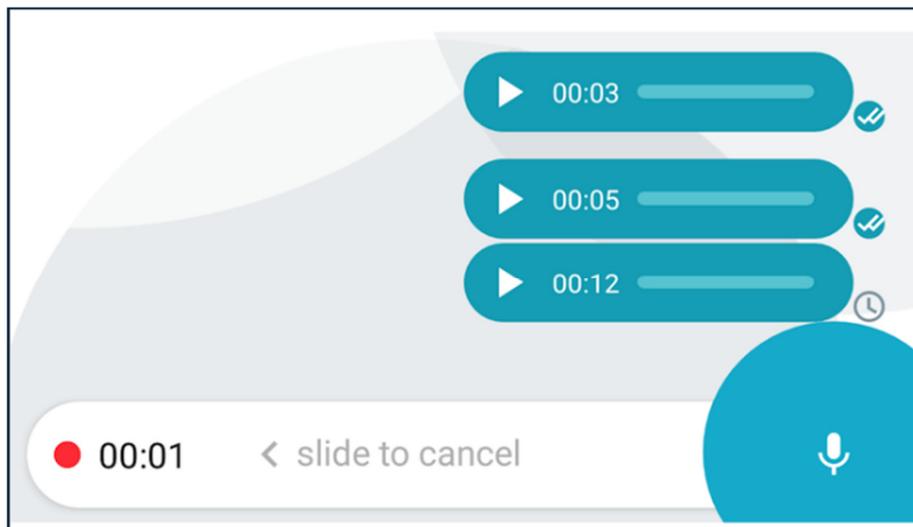
18.   Allo conversations are stored on Google servers.

See, delete, or clear your chat history

Your Allo conversations are stored on Google's servers or on your device.

When you delete conversations or clear your history within conversations, the messages will be deleted from Google's servers and on your own device. The messages won't be deleted or cleared on the devices of the people you chatted with.

To delete your chats with your Google Assistant, you'll need to delete the activity in your one-on-one chat setting with your Google Assistant.

Source: https://support.google.com/allo/answer/6383728

19.   Defendant has directly infringed, and continues to directly infringe one or more claims of the '622 Patent, including at least Claim 3 in this judicial district and elsewhere in Texas, literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling one or more versions of the Allo app and associated system during the pendency of the '622 Patent which software and associated servers perform instant voice messaging over Wi-Fi and the Internet between persons using cellphones and/or other devices capable of instant voice messaging; wherein digitized audio files are transmitted between a plurality of recipients on a packet switched network and a list of one or more currently potential recipients is displayed on the device.

20.   In addition, should Defendant's Allo app and associated system be found to not literally infringe one or more claims of the '622 Patent, Defendant's accused products and associated system would nevertheless infringe one or more claims of the '622 Patent, including at least Claim 3, under the doctrine of equivalents. More specifically, the accused Allo app and associated system perform substantially the same function (instant voice messaging), in substantially the same way (via a digitized audio files in a client/server environment), to yield substantially the same result (delivering voice messages to available intended recipients).

Defendant would thus be liable for direct infringement under the doctrine of equivalents.

21.   Defendant has indirectly infringed and continues to indirectly infringe one or more claims of the '622 Patent, including at least Claim 3, in this judicial district and elsewhere in Texas by, among other things, actively inducing the using, offering for sale, selling, or importing the Allo app and associated system. Defendant's customers who obtain and use the Allo app and associated system and operate such app in accordance with Defendant's instructions directly infringe one or more of the claims of the '622 Patent in violation of 35 U.S.C. § 271.

22.   Defendant instructs its customers in the use of the Allo app, directly and indirectly, through training videos, demonstrations, brochures, installation and/or user guides, such as those located at the following:

https://support.google.com/

https://itunes.apple.com/us/app

https://play.google.com/store

www.youtube.com

Defendant is thereby liable for infringement of the '622 Patent under 35 U.S.C. § 271(b).

23.   Defendant has indirectly infringed and continues to indirectly infringe one or more claims of the '622 Patent, including at least Claim 3, in this judicial district and elsewhere in the Texas by, among other things, contributing to the direct infringement by others including, without limitation customers using the Allo app and associated 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 '622 Patent and not a staple article or commodity of commerce suitable for

substantial non-infringing use.

24.   For example, the Allo app and associated system are a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patent process. Furthermore, the Allo app and associated system are 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. Defendant is therefore, liable for infringement under 35 U.S.C. § 271(c).

25.   Defendant will have been on notice of the '622 Patent since at least the service of this complaint upon Defendant. By the time of trial, Defendant will have known and intended (since receiving such notice) that its continued actions would actively induce, and contribute to actual infringement of one or more claims of the '622 Patent, including at least Claim 3.

26.   Defendant may have infringed the '622 Patent through other software, currently unknown to Uniloc, utilizing the same or reasonably similar functionality, including other versions of its Allo app and associated system. Uniloc reserves the right to discover and pursue all such additional infringing software/devices.

COUNT II

(INFRINGEMENT OF U.S. PATENT NO. 8,995,433)

27.   Uniloc incorporates by reference the above paragraphs.

28.   Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 8,995,433 ("the '433 Patent"), entitled SYSTEM AND METHOD FOR INSTANT VOIP MESSAGING that issued on March 31, 2015. A true and correct copy of the '433 Patent is attached as Exhibit B hereto.

29.   Uniloc USA is the exclusive licensee of the '433 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.

30.   Defendant has directly infringed, and continues to directly infringe one or more claims of the '433 Patent, including at least Claim 1 in this judicial district and elsewhere in Texas, literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling one or more versions of the Allo app and associated system during the pendency of the '433 Patent which software and associated servers perform instant voice messaging over Wi-Fi and the Internet between persons using cellphones and/or other devices capable of instant voice messaging; wherein digitized audio files are transmitted between a plurality of recipients on a packet switched network and a list of one or more currently potential recipients is displayed on the device.

31.   In addition, should Defendant's Allo app and associated system be found to not literally infringe one or more claims of the '433 Patent, Defendant's accused products and associated system would nevertheless infringe one or more claims of the '433 Patent, including at least Claim 1, under the doctrine of equivalents. More specifically, the accused Allo app and associated system perform substantially the same function (instant voice messaging), in substantially the same way (via a digitized audio files in a client/server environment), to yield substantially the same result (delivering voice messages to available intended recipients). Defendant would thus be liable for direct infringement under the doctrine of equivalents.

32.   Defendant has indirectly infringed and continues to indirectly infringe one or more claims of the '433 Patent, including at least Claim 1, in this judicial district and elsewhere in Texas by, among other things, actively inducing the using, offering for sale, selling, or importing the Allo app and associated system. Defendant's customers who obtain and use the Allo app and

associated system and operate such app in accordance with Defendant's instructions directly infringe one or more of the claims of the '433 Patent in violation of 35 U.S.C. § 271.

33.   Defendant instructs its customers in the use of the Allo app, directly and indirectly, through training videos, demonstrations, brochures, installation and/or user guides, such as those located at the following:

https://support.google.com/

https://itunes.apple.com/us/app

https://play.google.com/store

www.youtube.com

Defendant is thereby liable for infringement of the '433 Patent under 35 U.S.C. § 271(b).

34.   Defendant has indirectly infringed and continues to indirectly infringe one or more claims of the '433 Patent, including at least Claim 1, in this judicial district and elsewhere in the Texas by, among other things, contributing to the direct infringement by others including, without limitation customers using the Allo app and associated 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 '433 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

35.   For example, the Allo app and associated system are a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patent process. Furthermore, the Allo app and associated system are 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. Defendant is therefore, liable for infringement under 35 U.S.C. § 271(c).

36.   Defendant will have been on notice of the '433 Patent since at least the service of this complaint upon Defendant. By the time of trial, Defendant will have known and intended (since receiving such notice) that its continued actions would actively induce, and contribute to actual infringement of one or more claims of the '433 Patent, including at least Claim 1.

37.   Defendant may have infringed the '433 Patent through other software, currently unknown to Uniloc, utilizing the same or reasonably similar functionality, including other versions of its Allo app and associated system. Uniloc reserves the right to discover and pursue all such additional infringing software/devices.

COUNT III

(INFRINGEMENT OF U.S. PATENT NO. 7,535,890)

38.   Uniloc incorporates by reference the above paragraphs.

39.   Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 7,535,890 ("the '890 Patent"), entitled SYSTEM AND METHOD FOR INSTANT VOIP MESSAGING that issued on May 19, 2009. A true and correct copy of the '890 Patent is attached as Exhibit C hereto.

40.   Uniloc USA is the exclusive licensee of the '890 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.

41.   Defendant has directly infringed, and continues to directly infringe one or more claims of the '890 Patent, including at least Claim 1 in this judicial district and elsewhere in Texas, literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling one or more versions of the Allo app and associated system during the

pendency of the '890 Patent which software and associated servers perform instant voice messaging over Wi-Fi and the Internet between persons using cellphones and/or other devices capable of instant voice messaging; wherein digitized audio files are transmitted between a plurality of recipients on a packet switched network and a list of one or more currently potential recipients is displayed on the device.

42.   In addition, should Defendant's Allo app and associated system be found to not literally infringe one or more claims of the '890 Patent, Defendant's accused products and associated system would nevertheless infringe one or more claims of the '890 Patent, including at least Claim 1, under the doctrine of equivalents. More specifically, the accused Allo app and associated system performs substantially the same function (instant voice messaging), in substantially the same way (via a digitized audio files in a client/server environment), to yield substantially the same result (delivering voice messages to available intended recipients). Defendant would thus be liable for direct infringement under the doctrine of equivalents.

43.   Defendant has indirectly infringed and continues to indirectly infringe one or more claims of the '890 Patent, including at least Claim 1, in this judicial district and elsewhere in Texas by, among other things, actively inducing the using, offering for sale, selling, or importing the Allo app and associated system. Defendant's customers who obtain and use the Allo app and associated system and operate such app in accordance with Defendant's instructions directly infringe one or more of the claims of the '890 Patent in violation of 35 U.S.C. § 271.

44.   Defendant instructs its customers in the use of the Allo app, directly and indirectly, through training videos, demonstrations, brochures, installation and/or user guides, such as those located at the following:

https://support.google.com/

https://itunes.apple.com/us/app

https://play.google.com/store

www.youtube.com

Defendant is thereby liable for infringement of the '890 Patent under 35 U.S.C. § 271(b).

45.   Defendant has indirectly infringed and continues to indirectly infringe one or more claims of the '890 Patent, including at least Claim 1, in this judicial district and elsewhere in the Texas by, among other things, contributing to the direct infringement by others including, without limitation customers using the Allo app and associated 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 '890 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

46.   For example, the Allo app and associated system are a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patent process. Furthermore, the Allo app and associated system are 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. Defendant is therefore, liable for infringement under 35 U.S.C. § 271(c).

47.   Defendant will have been on notice of the '890 Patent since at least the service of this complaint upon Defendant. By the time of trial, Defendant will have known and intended (since receiving such notice) that its continued actions would actively induce, and contribute to actual infringement of one or more claims of the '890 Patent, including at least Claim 1.

48.   Defendant may have infringed the '890 Patent through other software, currently unknown to Uniloc, utilizing the same or reasonably similar functionality, including other versions of its Allo app and associated system. Uniloc reserves the right to discover and pursue all such additional infringing software/devices.

PRAYER FOR RELIEF

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

(A)   that Defendant has infringed the '622 Patent, '433 Patent, and '890 Patent;

(B)   awarding Uniloc its damages suffered as a result of Defendant's infringement of the '622 Patent, '433 Patent, and '890 Patent pursuant to 35 U.S.C. § 284;

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

(D)   granting Uniloc such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

50.   Uniloc hereby demands trial by jury on all issues so triable pursuant to Fed. R. Civ. P. 38.

Dated: March 26, 2017   Respectfully submitted,

/s/ James L. Etheridge

James L. Etheridge
Texas State Bar No. 24059147
Ryan S. Loveless
Texas State Bar No. 24036997
Brett A. Mangrum
Texas State Bar No. 24065671
Travis L. Richins
Texas State Bar No. 24061296
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
Ryan@EtheridgeLaw.com
Brett@EtheridgeLaw.com
Travis@EtheridgeLaw.com

Counsel for Plaintiffs Uniloc USA, Inc. and Uniloc Luxembourg S.A.