

**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. 2:16-cv-741 (JRG)
	§	LEAD CASE
Plaintiffs,	§	
	§	
v.	§	
	§	
ADP, LLC,	§	
	§	JURY TRIAL DEMANDED
Defendant.	§	

**PLAINTIFFS' SURREPLY IN OPPOSITION TO
DEFENDANT'S MOTION TO DISMISS
FOR FAILURE TO STATE A CLAIM**

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I. INTRODUCTION

In its opening motion and again in its reply, ADP improperly characterizes the nature of the Asserted Patents as covering “time-honored methods of organizing human activity, ‘implemented with generic technical components in a conventional way.’” Reply at 1. This argument must be rejected because it constitutes an improper over-generalization of the scope of the Asserted Patents. *See, e.g., Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1336 (Fed. Cir. 2016). Moreover, Uniloc has identified specific limitations of the Asserted Claims that contribute to unique solutions that improve the functionality of the technology while also identifying how the art at the time was so lacking. *See Opp.*(Dkt. No. 64) at 2-6.

ADP also improperly attempts to shift the burden of proof to Uniloc at this stage of the litigation. Reply at 1 (“Uniloc must show that its computer-limited claims provide a ‘technology-based solution’ that overcomes problems in a technical art.”). Contrary to ADP’s argument, the burden of proving invalidity rests with ADP and never shifts to Uniloc. *See, e.g., Novo Nordisk A/S v. Caraco Pharm. Labs., Ltd.*, 719 F.3d 1346, 1352 (Fed. Cir. 2013). In any event, Uniloc has shown the problems overcome by the claimed inventions. *See Opp.* at 2-6, 9-25.

II. ARGUMENT

A. The Asserted Patents Provide Unconventional Technological Solutions

ADP goes to great lengths to distinguish the Federal Circuit precedent cited by Uniloc using an overly-simplistic analogy to a librarian or shopkeeper in 1916. Reply at 2-5. An even more recent Federal Circuit case further supports Uniloc’s position. In *Amdocs (Isr.) Ltd. v. Opennet Telecom, Inc.*, 2016 U.S. App. LEXIS 19593 (Fed. Cir. Nov. 1, 2016), the Court considered, *inter alia*, the following claim:

1. A computer program product embodied on a computer readable storage medium for processing network accounting information comprising:

- computer code for receiving from a first source a first network accounting record;

computer code for correlating the first network accounting record with accounting information available from a second source; and

computer code for using the accounting information with which the first network accounting record is correlated to enhance the first network accounting record.

Id. at **24-25. The Court reversed the district court’s determination that this claim was directed to an abstract idea under Step 1 and lacking “inventive concept” under Step 2 of *Alice*. *Id.* at **25-33. The Court found this claim to be patent eligible, relying on the holdings from *Bascom* and *DDR Holdings* cited prominently in Uniloc’s opposition brief.

The claims of the Asserted Patents are similar in their language and scope as the above claim found eligible in *Amdocs*. For example, claim 1 of the ’578 Patent recites as follows:

1. A method for management of configurable application programs on a network comprising the steps of:

[a] installing an application program having a plurality of configurable preferences and a plurality of authorized users on a server coupled to the network;

[b] distributing an application launcher program associated with the application program to a client coupled to the network;

[c] obtaining a user set of the plurality of configurable preferences associated with one of the plurality of authorized users executing the application launcher program;

[d] obtaining an administrator set of the plurality of configurable preferences from an administrator; and

[e] executing the application program using the obtained user set and the obtained administrator set of the plurality of configurable preferences responsive to a request from the one of the plurality of authorized users.

See Opp. at 9-10. As in *Amdocs*, this and the other challenged claims are patent eligible.

The Court in *Amdocs* also noted specifically that the patent provided a “critical advancement over the prior art.” *Id.* at *27. Specifically, the patent identified the problem in the prior art as being that “all the network data information flows to one location, making it very difficult to keep up with the massive record flows from the network devices and requiring huge

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