

The Honorable Ricardo S. Martinez

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UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNILOC 2017 LLC,

Plaintiff,

v.

HTC AMERICA, INC.,

Defendant.

Case No. 2:18-CV-01732-RSM

**HTC AMERICA, INC.'S ANSWER AND  
COUNTERCLAIMS TO PLAINTIFFS'  
COMPLAINT FOR PATENT  
INFRINGEMENT**

**JURY TRIAL DEMANDED**

Defendant HTC America, Inc. ("HTCA" or "Defendant"), hereby answers Plaintiff Uniloc 2017 LLC's ("Uniloc") Complaint filed on November 30, 2018 (the "Complaint").

**THE PARTIES**

1. HTCA is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1 and therefore denies them.

2. HTCA admits that it is a Washington corporation with an office in Seattle, Washington. HTCA admits that it may be served with process through its registered agent: Cogency Global Inc., 1780 Barnes Blvd. SW, Tumwater, Washington 98512. HTCA denies any remaining allegations of paragraph 2.



1 11. Denied.

2 12. Denied.

3 13. Denied.

4 14. Denied.

5 15. Denied.

6 16. Denied.

7 17. HTCA admits having notice of the '654 patent since at least the service of the  
8 Complaint. HTCA denies the remaining allegations of paragraph 17.

9 18. Denied.

10 19. Denied.

11 20. Denied.

12 **PRAYER FOR RELIEF**

13 This paragraph responds to the statement of relief requested by Uniloc to which no response  
14 is required. HTCA denies that Uniloc is entitled to any of the requested relief and denies all  
15 allegations of infringement.

16  
17 **DEMAND FOR JURY TRIAL**

18 This paragraph responds to the trial by jury demanded by Uniloc to which no response is  
19 required.

20 **DEFENSES**

21 Subject to the responses above, HTCA alleges and asserts the following defenses in response  
22 to the allegations, without assuming any burden other than that imposed by operation of law and  
23 undertaking the burden of proof only as to those defenses deemed affirmative defenses by law,  
24 regardless of how such defenses are denominated herein.

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1 **FIRST DEFENSE**

2 **(Failure to State a Claim)**

3 Uniloc fails to state a claim upon which relief can be granted.

4 **SECOND DEFENSE**

5 **(Non-infringement)**

6 HTCA does not infringe and has not infringed directly, indirectly, willfully or otherwise any  
7 valid, enforceable claim of the '654 patent, either literally or under the doctrine of equivalents.

8 **THIRD DEFENSE**

9 **(Invalidity)**

10 The claims of the '654 patent are invalid under one or more of the provisions in Title 35 of  
11 the United States Code, including without limitation §§ 101, 102, 103, and 112 and/or judicial  
12 decisions and/or the applicable provisions of Title 37 of the Code of Federal Regulation.

13 **FOURTH DEFENSE**

14 **(Prosecution History Estoppel)**

15 By reason of prior art and/or statements and representations made to the United States Patent  
16 and Trademark Office during the prosecution of the application that led to the issuance of the '654  
17 patent, the '654 patent is so limited that no claim can be construed as covering any HTCA product.  
18 Uniloc's claims are barred by the doctrine of prosecution history estoppel based on statements,  
19 representations and admissions made during prosecution of the patent applications resulting in the  
20 '654 patent. Uniloc is estopped from construing the claims of the '654 patent in any way to cover  
21 any product, method or service of HTCA under the doctrine of equivalents, based on statements,  
22 representations and admissions made during prosecution of the patent applications resulting in the  
23 '654 patent.

24 **FIFTH DEFENSE**

25 **(Limitation on Damages)**

26 Some or all of Uniloc's damages, if any, are limited under 35 U.S.C. §§ 286 and 287.  
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**SIXTH DEFENSE**

**(Limitation on Costs)**

Uniloc is barred from recovering any claim for costs according to 35 U.S.C. § 288.

**SEVENTH DEFENSE**

**(License and Exhaustion)**

To the extent Uniloc has licensed or otherwise exhausted its rights and remedies as to products or services that are accused, HTCA is not liable to Uniloc for any alleged acts of infringement related to such products or services. Alternatively, Uniloc’s claims are barred under the doctrine of patent exhaustion.

**EIGHTH DEFENSE**

**(No Double Recovery)**

Uniloc’s requests for relief are barred or otherwise limited by restrictions on double recovery.

**NINTH DEFENSE**

**(Extraterritoriality)**

Uniloc’s claims for patent infringement are precluded in whole or in part to the extent any accused functionality or acts are located or performed outside of the United States.

**TENTH DEFENSE**

**(Limitation for Sales Covered by 28 U.S.C. § 1498(a))**

To the extent Uniloc may accuse products or services that are provided by or for the government of the United States of America, in accordance with 28 U.S.C. § 1498(a), there is no jurisdiction over those claims outside of the United States Court of Federal Claims.

**ELEVENTH DEFENSE**

**(Equitable Defenses)**

Uniloc’s claims for relief are barred in whole or in part by equitable doctrines, including, but not limited to, equitable estoppel, waiver, and unclean hands.

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