

**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-892
Plaintiffs,	§	
	§	
v.	§	PATENT CASE
	§	
TELEGRAM MESSENGER, LLP,	§	
	§	
Defendant.	§	JURY TRIAL DEMANDED
	§	

**ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiffs, Uniloc USA, Inc. and Uniloc Luxembourg, S.A. (together “Uniloc”), as and for their complaint against defendant, Telegram Messenger, LLP (“Telegram” or “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, 4<sup>th</sup> Floor, L-2540, Luxembourg (R.C.S. Luxembourg B159161).

3. Uniloc Luxembourg owns a number of patents in the field of text/voice instant messaging.

4. Upon information and belief, Telegram is a limited liability partnership organized and existing under the laws of England and Wales, having its principal place of business at 71-75

Shelton Street Covent Garden, London, WC2H 9JQ. Telegram offers its products, including those accused of infringement herein, to customers and potential customers in Texas and in the judicial Eastern District of Texas.

**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, Telegram 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. Telegram 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 this judicial district 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 paragraphs 1-7 above by reference.

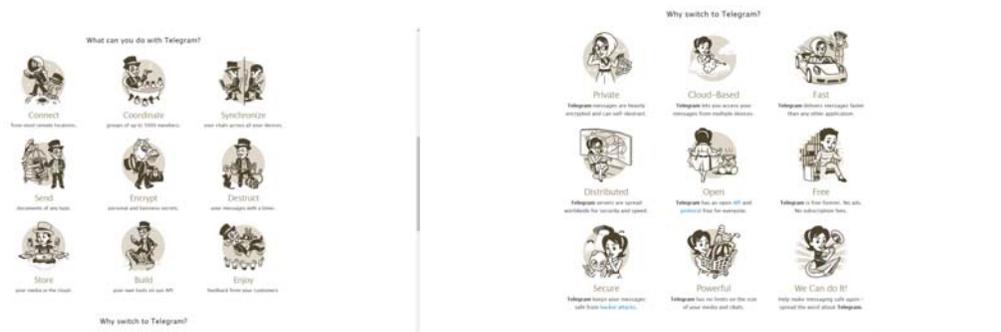
9. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 8,724,622 ("the '622 Patent"), entitled SYSTEM AND METHOD FOR INSTANT VOIP MESSAGING that issued on May 13, 2014. A true and correct copy of the '622 Patent is attached as Exhibit A hereto.

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. Upon information and belief, the following identifies the Telegram app:



12. Upon information and belief, the following identifies, at least in part, how the Telegram app works:



13. Upon information and belief, the following describes, at least in part, the Telegram app:

Q: What is Telegram? What do I do here?

Telegram is a messaging app with a focus on speed and security, it's super-fast, simple and free. You can use Telegram on all your devices at the same time — your messages sync seamlessly across any number of your phones, tablets or computers.

With Telegram, you can send messages, photos, videos and files of any type (doc, zip, mp3, etc), as well as create groups for up to 5000 people or channels for broadcasting to unlimited audiences. You can write to your phone contacts and find people by their usernames. As a result, Telegram is like SMS and email combined — and can take care of all your personal or business messaging needs.

14. Upon information and belief, the following describes, at least in part, how the Telegram app works:

Q: How is Telegram different from WhatsApp?

Unlike WhatsApp, Telegram is a cloud-based messenger with seamless sync. As a result, you can access your messages from several devices at once, including tablets and computers, and share an unlimited number of photos, videos and files (doc, zip, mp3, etc.) of up to 1.5 GB each. And if you don't want to store that data on your device, you can always keep it in the cloud.

Thanks to our multi-data center infrastructure and encryption, Telegram is faster and way more secure. On top of that, Telegram is free and will stay free — no ads, no subscription fees, forever.

15. Upon information and belief, the following describes, at least in part, how the Telegram app works:

Voice messages on Telegram just got a completely new interface with waveform visualizations, a brand new player and raise-to-speak functionality.

You can now start listening to a long voice message and switch to other media or chats. The message will continue playing in the background. For who are we to defy the god of multi-tasking?

16. Upon information and belief, the following describes, at least in part, how the Telegram app works:



New looks for voice messages

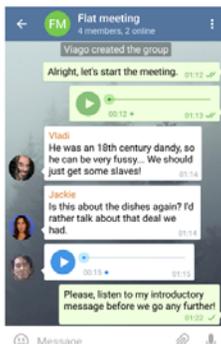


Raise to Speak: Preview before sending

17. Upon information and belief, the following describes, at least in part, how the Telegram app works:

### New Voice Messages

You can now see whether the recipient has listened to your voice message — and keep track of which ones you've listened to yourself. Voice messages that have not been played yet are now marked with a small dot.



18. Upon information and belief, the following describes, at least in part, how the Telegram app for Android works:

### Android Goodies

Telegram for Android joins the iOS app in showing extended 'typing' statuses: you can now see when your chat partner is sending you a photo or recording a voice message. Scrolling and photo animations have become smoother than ever.

19. Upon information and belief, the following describes the types of devices with which the Telegram app works:

Q: Which devices can I use?

You can use Telegram on smartphones, tablets, and even computers. We have apps for iOS (6 and above), Android (2.2 and up) and Windows Phone. You can also use Telegram's web version or install one of our desktop apps for Windows, OSX, and Linux.

20. Upon information and belief, the following identifies various versions of the Telegram app:

# Telegram Applications

## Mobile apps

- Telegram for Android
- Telegram for iPhone and iPad
- Telegram for WP
- Telegram for Firefox OS

## Desktop apps

- Telegram for Windows/Mac/Linux
- Telegram for macOS

## Web apps

- Telegram Web-version
- Telegram Chrome app

## Unofficial apps

- Telegram CLI for Linux

21. Upon information and belief, the following describes, at least in part, the cloud-based Telegram app:



22. Upon information and belief, the following describes, at least in part, the Telegram app basics:

### Telegram Basics

Q: Who can I write to?

You can write to people who are in your phone contacts and have Telegram.

You can also select a public username for your Telegram account. Other people will be able to search and find you by that username — and send messages to you even if they don't know your number. You can learn more about usernames here.

Q: How do I know who in my contacts has Telegram?

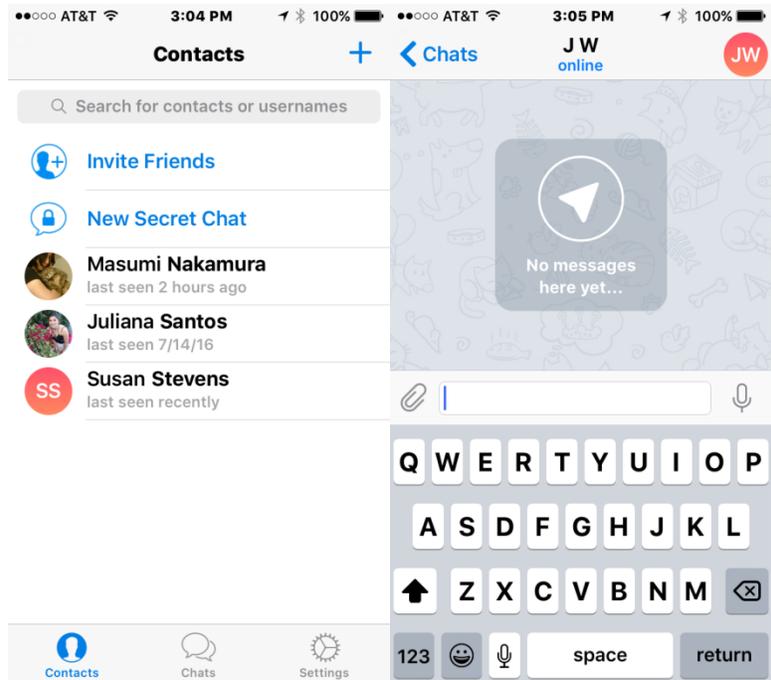
Your contacts, who have Telegram, are shown at the top of your Contacts. They also have pictures.

Q: How do I invite my friends?

iOS: The basic invitations are simple SMS messages. They will be charged as standard outgoing SMS by your carrier (unless sent via iMessage). Naturally, you have other options to bring your friends here. Try sending them a download link via any other messaging service: email, Facebook, WhatsApp, an actual telegram — you name it. The link: <https://telegram.org/dl/windows#ios>

Android: Open the app menu (swipe right in chats list) — Invite Friends. Then choose an application via which you would like to send out invitations.

23. Upon information and belief, the following describes, at least in part, how the Telegram app works:



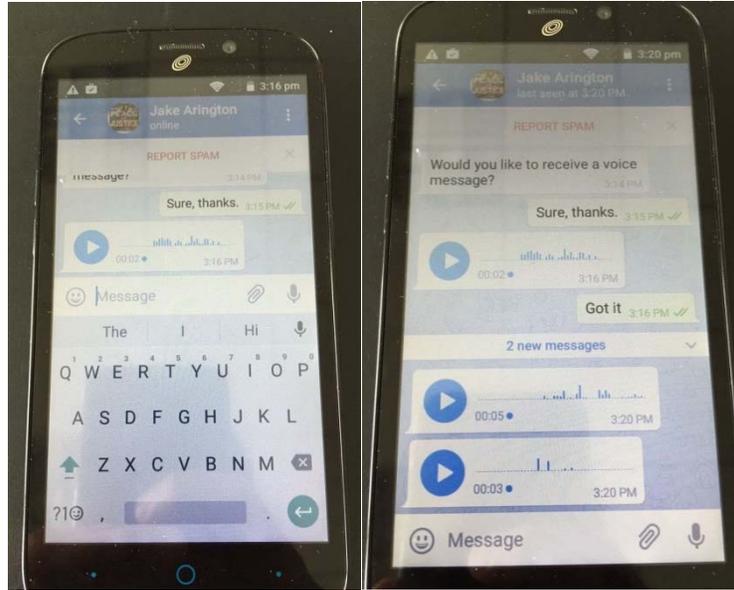
24. Upon information and belief, the following describes, at least in part, how the Telegram app works:



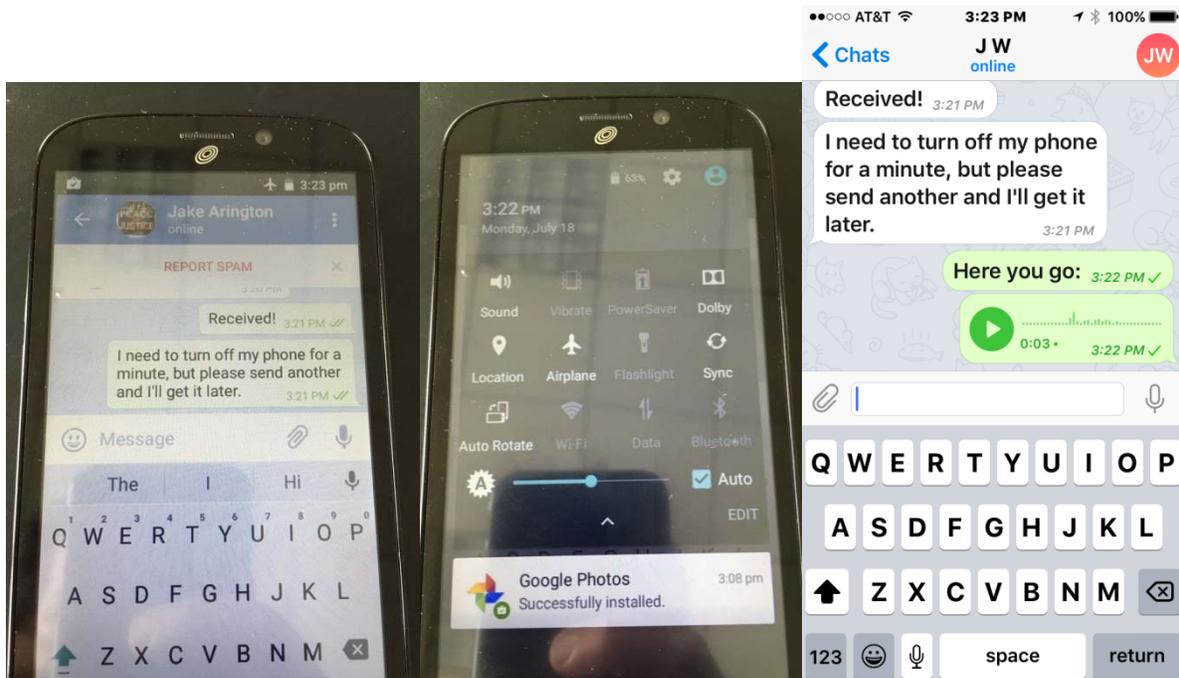
25. Upon information and belief, the following describes, at least in part, how the Telegram app works:



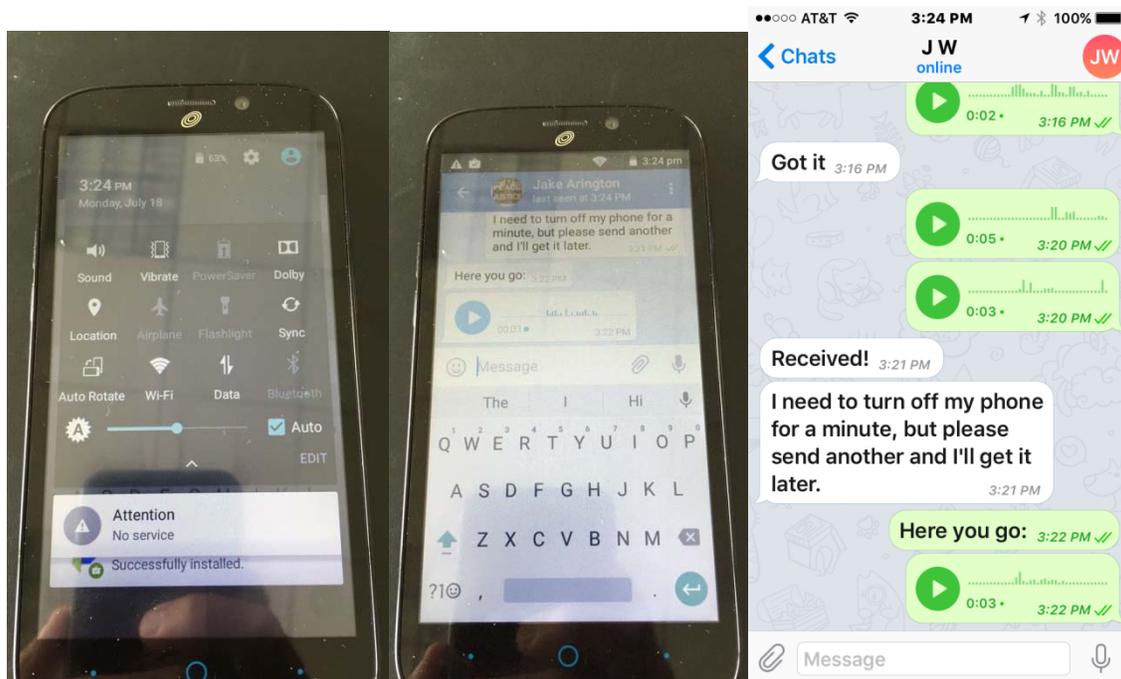
26. Upon information and belief, the following describes, at least in part, how the Telegram app works:



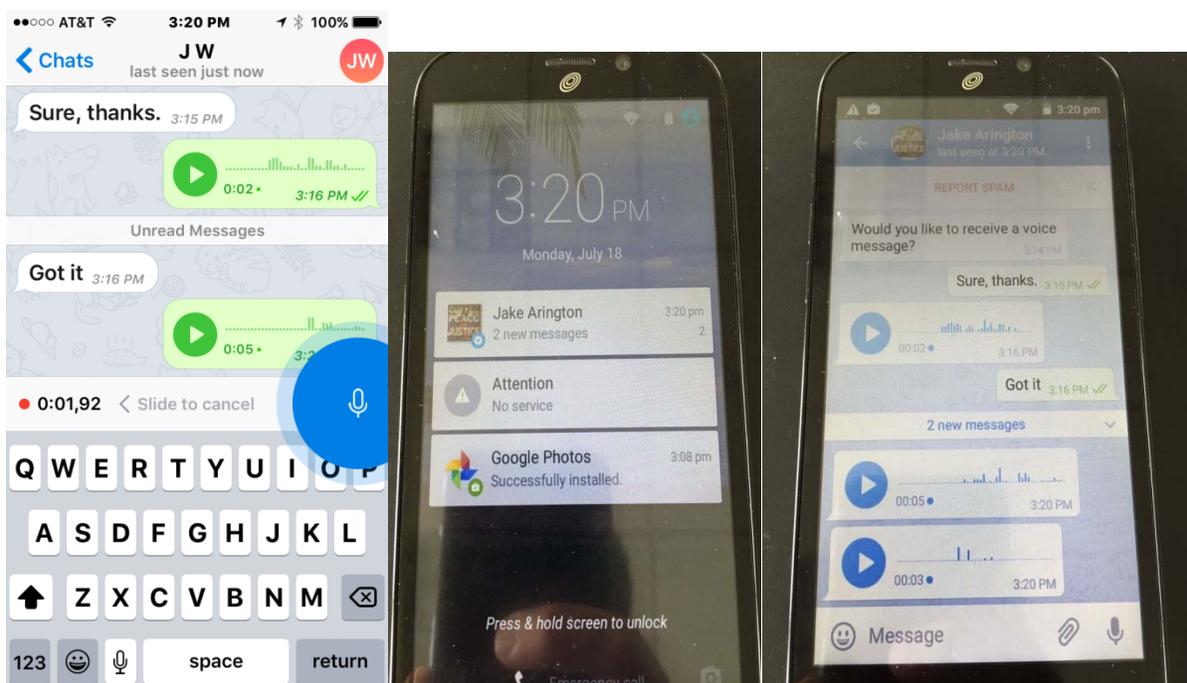
27. Upon information and belief, the following describes, at least in part, how the Telegram app works:



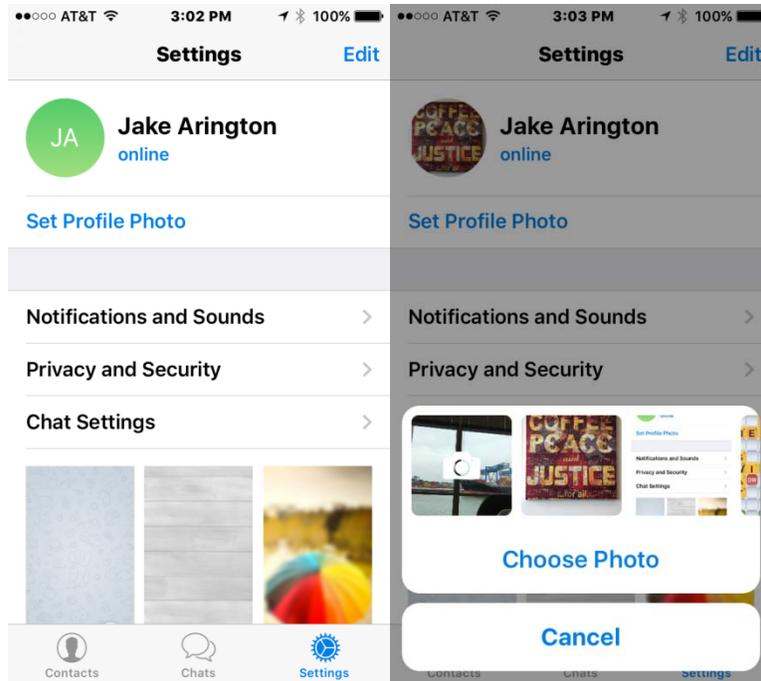
28. Upon information and belief, the following describes, at least in part, how the Telegram app works:



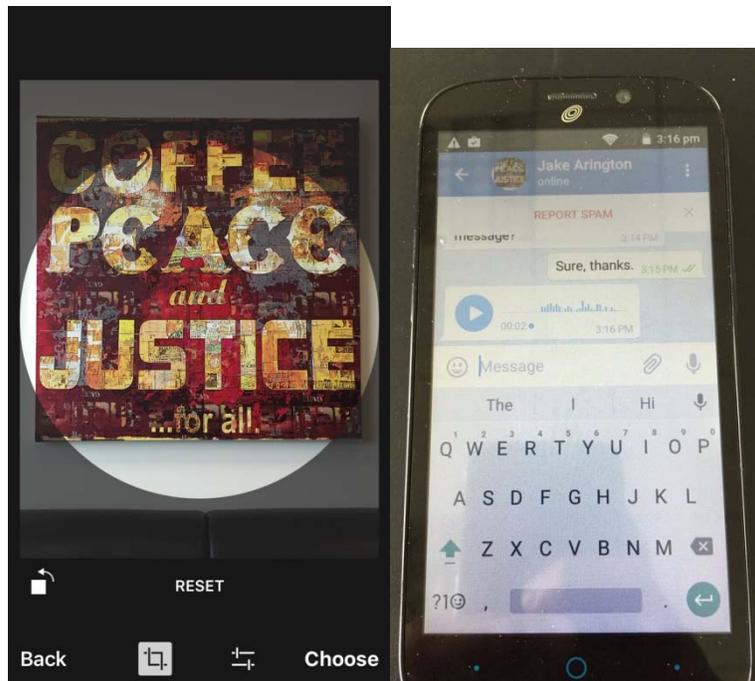
29. Upon information and belief, the following describes, at least in part, how the Telegram app works:



30. Upon information and belief, the following describes, at least in part, how the Telegram app works:



31. Upon information and belief, the following describes, at least in part, how the Telegram app works:



32. Upon information and belief, the following describes, at least in part, how the Telegram app works:

Q: What do the green checks mean?

One check — message delivered to the Telegram cloud and your friend has been notified if he allows notifications.  
Two checks — message read (your friend opened Telegram and opened the conversation with the message).

We don't have a 'delivered to device' status for messages because Telegram can run on as many devices as you want. So which particular one would that check mean?

33. Upon information and belief, the following describes, at least in part, how the Telegram app works:

Q: Can I hide my 'last seen' time?

You can choose who sees this info in Privacy and Security settings.

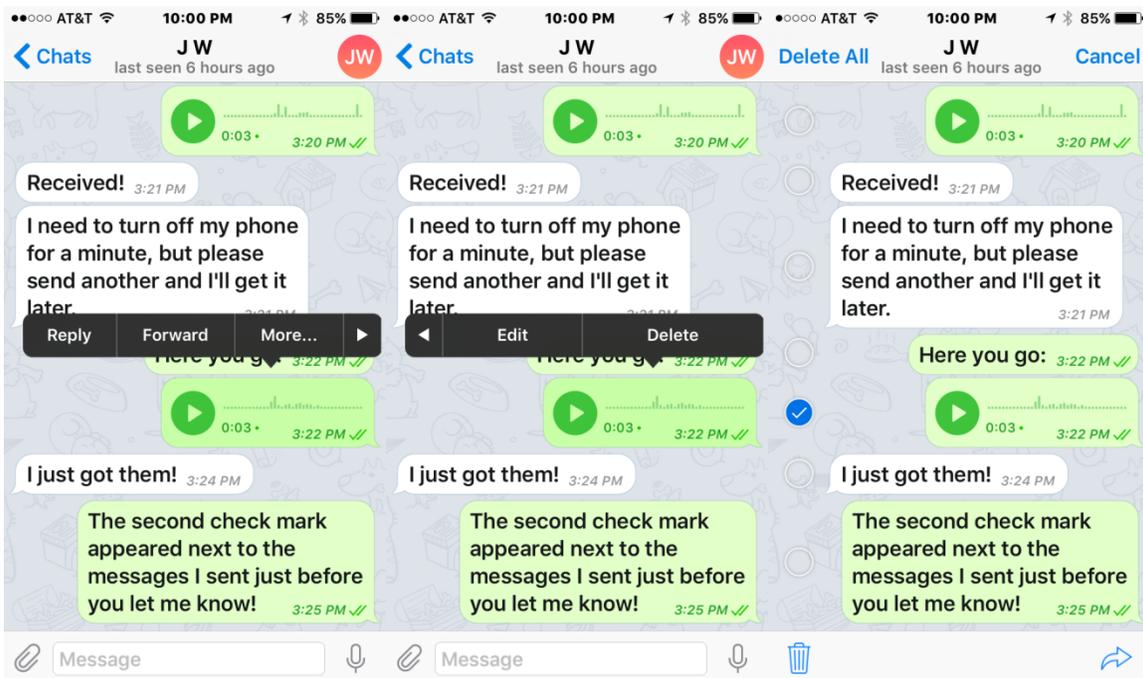
Remember that you won't see Last Seen timestamps for people with whom you don't share your own. You will, however, see an approximate last seen value. This keeps stalkers away but makes it possible to understand whether a person is reachable over Telegram. There are four possible approximate values:

- Last seen recently — covers anything between 1 second and 2-3 days
- Last seen within a week — between 2-3 and seven days
- Last seen within a month — between 6-7 days and a month
- Last seen long time ago — more than a month (this is also always shown to blocked users)

Q: Who can see me 'online'?

The last seen rules apply to your online status as well. People can only see you online if you're sharing your last seen status with them. There is one exception to this: people will be able to see you online for a brief period when you send them a message in a one-on-one chat or in a group where you both are members.

34. Upon information and belief, the following describes, at least in part, how the Telegram app works:



35. Upon information and belief, the following describes, at least in part, how the Telegram app works:

Q: How secure is Telegram?

Telegram is more secure than mass market messengers like WhatsApp and Line. We are based on the MTProto protocol (see description and advanced FAQ), built upon time-tested algorithms to make security compatible with high-speed delivery and reliability on weak connections. We are continuously working with the community to improve the security of our protocol and clients.

Q: What if I'm more paranoid than your regular user?

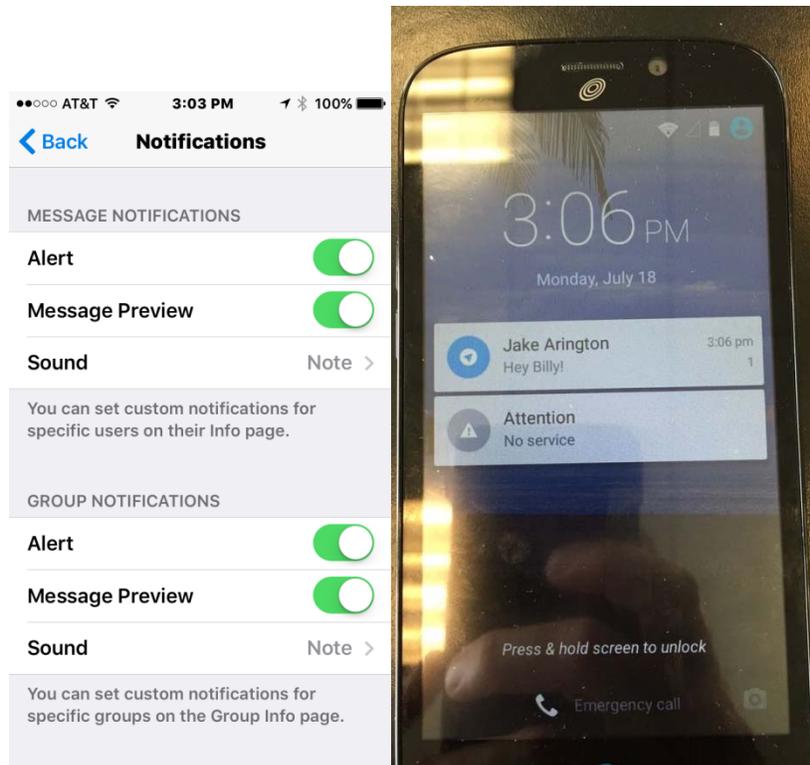
We've got you covered. Telegram's special secret chats use end-to-end encryption, leave no trace on our servers, support self-destructing messages and don't allow forwarding. On top of this, secret chats are not part of the Telegram cloud and can only be accessed on their devices of origin.

Q: So how do you encrypt data?

We support two layers of secure encryption. Server-client encryption is used in Cloud Chats (private and group chats), Secret Chats use an additional layer of client-client encryption. All data, regardless of type, is encrypted in the same way — be it text, media or files.

Our encryption is based on 256-bit symmetric AES encryption, RSA 2048 encryption, and Diffie-Hellman secure key exchange. You can find more info in the Advanced FAQ.

36. Upon information and belief, the following describes, at least in part, how the Telegram app works:



37. Defendant has directly infringed, and continue to directly infringe one or more claims of the '622 Patent in this judicial district and elsewhere in Texas, including at least claims 3, 4, 6-8, 10-19, 21-23 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 Telegram app 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.

38. In addition, should the accused Telegram app system be found to not literally infringe the asserted claims of the '622 Patent, the accused system would nevertheless infringe the asserted claims of the '622 Patent. More specifically, the accused Telegram app 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.

39. Defendant has indirectly infringed and continues to indirectly infringe at least claims 3, 4, 6-8, 10-19, 21-23 of the '622 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the using, offering for sale, selling, or importing the Telegram app. Defendant's customers who purchase the Telegram app and operate such app in accordance with Defendant's instructions directly infringe one or more of the foregoing claims of the '622 Patent in violation of 35 U.S.C. § 271. Defendant instructs its customers directly and indirectly through training videos, demonstrations, brochures, installation and/or user guides, such as those located at the following:

[www.telegram.org](http://www.telegram.org)

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

<https://play.google.com/store>

[www.youtube.com](http://www.youtube.com)

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

40. Defendant has indirectly infringed and continues to indirectly infringe at least claims 3, 4, 6-8, 10-19, 21-23 of the '622 Patent in this judicial district and elsewhere in the United States by, among other things, contributing to the direct infringement by others including, without limitation customers using the Telegram app, 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.

41. For example, the Telegram app is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patent process. Furthermore, the Telegram app is 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).

42. Defendant will have been on notice of the '622 Patent since, at the latest, 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, the infringement of one or more of claims 3, 4, 6-8, 10-19, 21-23 of the '622 Patent.

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

44. Uniloc has been damaged, reparably and irreparably, by Defendant's infringement of the '622 Patent and such damage will continue unless and until Defendant is enjoined.

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

45. Uniloc incorporates paragraphs 1-44 above by reference.

46. 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.

47. 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.

48. Defendant has directly infringed, and continues to directly infringe one or more claims of the '433 Patent in this judicial district and elsewhere in Texas, including at least claims 1-5, 7-12, 14-17 and 25-26 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 Telegram app during the pendency of the '433 Patent which software and associated Telegram and/or Digital Fortress 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 a list of one or more potential recipients is displayed on the device, the instant messages are temporarily stored using a unique identifier, and a file manager stores, retrieves and/or deletes the messages in response to the users request.

49. In addition, should the Telegram app system be found to not literally infringe the asserted claims of the '433 Patent, the system would nevertheless infringe the asserted claims of

the '433 Patent. More specifically, the accused Telegram app system performs substantially the same function (instant voice messaging), in substantially the same way (identifying potentially available recipients, storing messages using unique identifiers and a file manager for storing, retrieving and/or deleting the messages), to yield substantially the same result (delivering voice messages to available intended recipients and wherein the messages may be stored, retrieved and/or deleted). Defendant would thus be liable for direct infringement under the doctrine of equivalents.

50. Defendant has indirectly infringed and continues to indirectly infringe at least claims 1-5, 7-12, 14-17 and 25-26 of the '433 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the using, offering for sale, selling, or importing the Telegram app. Customers who purchase the Telegram app and operate such application in accordance with Defendant's instructions directly infringe one or more of the foregoing claims of the '433 Patent in violation of 35 U.S.C. § 271. Defendant instructs its customers directly and indirectly through training videos, demonstrations, brochures, installation and/or user guides, such as those located at the following:

[www.telegram.org](http://www.telegram.org)

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

<https://play.google.com/store>

[www.youtube.com](http://www.youtube.com)

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

51. Defendant has indirectly infringed and continue to indirectly infringe at least claims 1-5, 7-12, 14-17 and 25-26 of the '433 Patent in this judicial district and elsewhere in the United States by, among other things, contributing to the direct infringement by others including,

without limitation customers using the Telegram app, 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.

52. For example, the Telegram app is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patent process. Furthermore, the Telegram app is 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).

53. Defendant will have been on notice of the '433 Patent since, at the latest, the service of this complaint upon them. 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, the infringement of one or more of claims 1-5, 7-12, 14-17 and 25-27 of the '433 Patent.

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

55. Uniloc has been damaged, reparably and irreparably, by Defendant's infringement of the '433 Patent and such damage will continue unless and until Defendant is enjoined.

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

56. Uniloc incorporates paragraphs 1-55 above by reference.

57. 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.

58. 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.

59. Defendant has directly infringed, and continues to directly infringe one or more claims of the ’890 Patent in this judicial district and elsewhere in Texas, including at least claims 1-6, 9, 14, 17-20, 23, 28-29, 31-33, 37, 40-43, 46, 51-54, 57, and 62-65 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 Telegram app 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 the instant messages are temporarily stored if an intended message recipient is unavailable and thereafter delivered once the intend recipient becomes available.

60. In addition, should the Telegram app system be found to not literally infringe the asserted claims of the ’890 Patent, the system would nevertheless infringe the asserted claims of the ’890 Patent. More specifically, the accused system performs substantially the same function (instant voice messaging), in substantially the same way (via 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.

61. Defendant has indirectly infringed and continues to indirectly infringe at least claims 1-6, 9, 14, 17-20, 23, 28-29, 31-33, 37, 40-43, 46, 51-54, 57, and 62-65 of the '890 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the using, offering for sale, selling, or importing the Telegram app. Customers who purchase the Telegram app and operate such app in accordance with Telegram's instructions directly infringe one or more of the foregoing claims of the '890 Patent in violation of 35 U.S.C. § 271. Defendant instructs its customers directly and indirectly through training videos, demonstrations, brochures, installation and/or user guides, such as those located at the following:

[www.telegram.org](http://www.telegram.org)

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

<https://play.google.com/store>

[www.youtube.com](http://www.youtube.com)

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

62. Defendant has indirectly infringed and continues to indirectly infringe at least claims 1-6, 9, 14, 17-20, 23, 28-29, 31-33, 37, 40-43, 46, 51-54, 57, and 62-65 of the '890 Patent in this judicial district and elsewhere in the United States by, among other things, contributing to the direct infringement by others including, without limitation customers using the Telegram app, 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.

63. For example, the Telegram app is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patent process. Furthermore, the Telegram app is 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).

64. Defendant will have been on notice of the '890 Patent since, at the latest, the service of this complaint upon Telegram. 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, the infringement of one or more of claims 1-6, 9, 14, 17-20, 23, 28-29, 31-33, 37, 40-43, 46, 51-54, 57, and 62-65 of the '890 Patent.

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

66. Uniloc has been damaged, reparably and irreparably, by Defendant's infringement of the '890 Patent and such damage will continue unless and until Defendant is enjoined.

**COUNT IV**  
(INFRINGEMENT OF U.S. PATENT NO. 8,199,747)

67. Uniloc incorporates paragraphs 1-66 above by reference.

68. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 8,199,747 ("the '747 Patent"), entitled SYSTEM AND METHOD FOR INSTANT VOIP MESSAGING that issued on June 12, 2012. A true and correct copy of the '747 Patent is attached as Exhibit D hereto.

69. Uniloc USA is the exclusive licensee of the '747 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.

70. Defendant has directly infringed, and continues to directly infringe one or more claims of the '747 Patent in this judicial district and elsewhere in Texas, including at least claims 1-3 and 12-13 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 Telegram app during the pendency of the '747 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 the instant message audio file is generated and one or more files attached thereto and transmitting the files to available recipients and temporarily storing the message if an intended recipient is unavailable and thereafter delivered once the intend recipient becomes available.

71. In addition, should the Telegram app system be found to not literally infringe the asserted claims of the '747 Patent, the system would nevertheless infringe the asserted claims of the '747 Patent. More specifically, the accused Telegram app system performs substantially the same function (instant voice messaging), in substantially the same way (recording and transmitting a message to be audibly played by one or more recipients and temporarily storing messages for a recipient who is unavailable), to yield substantially the same result (delivering voice messages with attached file(s) to available intended recipients). Defendant would thus be liable for direct infringement under the doctrine of equivalents.

72. Defendant has indirectly infringed and continues to indirectly infringe at least claims 1-3 and 12-14 of the '747 Patent in this judicial district and elsewhere in the United States

by, among other things, actively inducing the using, offering for sale, selling, or importing the Telegram app. Telegram's customers who purchase the Telegram app and operate such app in accordance with Telegram's instructions directly infringe one or more of the foregoing claims of the '747 Patent in violation of 35 U.S.C. § 271. Defendant instructs its customers directly and indirectly through training videos, demonstrations, brochures, installation and/or user guides, such as those located at the following:

[www.telegram.org](http://www.telegram.org)

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

<https://play.google.com/store>

[www.youtube.com](http://www.youtube.com)

Defendant is thereby liable for infringement of the '747 Patent under 35 U.S.C. § 271(b).

73. Defendant has indirectly infringed and continues to indirectly infringe at least claims 1-3 and 12-13 of the '747 Patent in this judicial district and elsewhere in the United States by, among other things, contributing to the direct infringement by others including, without limitation customers using the Telegram app, 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 '747 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

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

75. Telegram will have been on notice of the '747 Patent since, at the latest, the service of this complaint upon Telegram. By the time of trial, Telegram will have known and intended (since receiving such notice) that its continued actions would actively induce, and contribute to, the infringement of one or more of claims 1-3 and 12-13 of the '747 Patent.

76. Defendant may have infringed the '747 Patent through other software utilizing the same or reasonably similar functionality, including other versions of the Telegram app. Uniloc reserves the right to discover and pursue all such additional infringing software/devices.

77. Uniloc has been damaged, reparably and irreparably, by Telegram's infringement of the '747 Patent and such damage will continue unless and until Defendant is enjoined.

**COUNT V**  
(INFRINGEMENT OF U.S. PATENT NO. 8,243,723)

78. Uniloc incorporates paragraphs 1-77 above by reference.

79. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 8,243,723 ("the '723 Patent"), entitled SYSTEM AND METHOD FOR INSTANT VOIP MESSAGING that issued on August 14, 2012. A true and correct copy of the '723 Patent is attached as Exhibit E hereto.

80. Uniloc USA is the exclusive licensee of the '723 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.

81. Defendant has directly infringed, and continues to directly infringe one or more claims of the '723 Patent in this judicial district and elsewhere in Texas, including at least claims 1-3 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 Telegram app during the pendency of the '723 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 the availability of the recipients' nodes is monitored, recorded and displayed and the instant message(s) are temporarily stored if an intended message recipient is unavailable and thereafter delivered once the intend recipient becomes available.

82. In addition, should the Telegram app system be found to not literally infringe the asserted claims of the '723 Patent, the system would nevertheless infringe the asserted claims of the '723 Patent. More specifically, the accused Telegram app system performs substantially the same function (instant voice messaging), in substantially the same way (monitoring, recording and displaying recipients' availability), to yield substantially the same result (delivering voice messages to available intended recipients and storing messages for unavailable recipients until they become available). Defendant would thus be liable for direct infringement under the doctrine of equivalents.

83. Defendant has indirectly infringed and continues to indirectly infringe at least claims 1-3 of the '723 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the using, offering for sale, selling, or importing the Telegram app. Telegram's customers who purchase the Telegram app and operate such application in accordance with Telegram's instructions directly infringe one or more of the foregoing claims of the '723 Patent in violation of 35 U.S.C. § 271. Defendant instructs its customers directly and indirectly through training videos, demonstrations, brochures, installation and/or user guides, such as those located at the following:

[www.telegram.org](http://www.telegram.org)

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

<https://play.google.com/store>

[www.youtube.com](http://www.youtube.com)

Defendant is thereby liable for infringement of the '723 Patent under 35 U.S.C. § 271(b).

84. Defendant has indirectly infringed and continues to indirectly infringe at least claims 1-3 of the '723 Patent in this judicial district and elsewhere in the United States by, among other things, contributing to the direct infringement by others including, without limitation customers using the Telegram app, 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 '723 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

85. For example, the Telegram app is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patent process. Furthermore, the Telegram app is 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).

86. Defendant will have been on notice of the '723 Patent since, at the latest, the service of this complaint upon Telegram. 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, the infringement of one or more of claims 1-3 of the '723 Patent.

87. Defendant may have infringed the '723 Patent through other software utilizing the same or reasonably similar functionality, including other versions of the Telegram app. Uniloc reserves the right to discover and pursue all such additional infringing software/devices.

88. Uniloc has been damaged, reparably and irreparably, by Telegram's infringement of the '723 Patent and such damage will continue unless and until Defendant is enjoined.

**PRAYER FOR RELIEF**

Uniloc requests that the Court enter judgment against Defendant as follows:

(A) that Defendant has infringed the '622 Patent, the '433 Patent, the '890 Patent, the '747 Patent and the '723 Patent;

(B) awarding Uniloc its damages suffered as a result of Defendant's infringement of the '622 Patent, the '433 Patent, the '890 Patent, the '747 Patent and the '723 Patent pursuant to 35 U.S.C. § 284;

(C) enjoining Defendant, its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries and parents, and all others acting in concert or privity with it from infringing the '622 Patent, the '433 Patent, the '890 Patent, the '747 Patent and the '723 Patent pursuant to 35 U.S.C. § 283;

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

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

**DEMAND FOR JURY TRIAL**

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

Dated: August 11, 2016

Respectfully submitted,

/s/ Craig Tadlock

Craig Tadlock

Texas State Bar No. 00791766

Keith Smiley

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**ATTORNEYS FOR THE PLAINTIFFS**