

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

JOAO CONTROL & MONITORING
SYSTEMS, LLC,

Plaintiff,

v.

PROTECT AMERICA, INC.,

Defendant.

Civil Action No. 1:14-cv-134-LY

***CORRECTED THIRD
AMENDED COMPLAINT FOR
PATENT INFRINGEMENT***

JURY TRIAL DEMANDED

Plaintiff Joao Control & Monitoring Systems, LLC (“Plaintiff” or “JCMS”), by and through its undersigned counsel, files this corrected Third Amended Complaint against Defendant Protect America, Inc. (“Defendant” or “Protect America”) as follows:

NATURE OF THE ACTION

1. This is a patent infringement action to stop Defendant's infringement of Plaintiff's United States Patent No. 6,542,076 entitled “*Control, Monitoring and/or Security Apparatus*” (the “’076 Patent”; (Dkt. No. 1-3)), United States Patent No. 6,549,130 entitled “*Control Apparatus and Method for Vehicles and/or for Premises*” (the “’130 Patent”; (Dkt. No. 1-4), United States Patent No. 6,587,046 entitled “*Monitoring Apparatus and Method*” (the “’046 Patent”; (Dkt. No. 1-5), United States Patent No. 7,277,010 entitled “*Monitoring Apparatus and Method*” (the “’010 Patent”; (Dkt. No. 1-6), United States Patent No. 7,397,363 entitled “*Control and/or Monitoring Apparatus and Method*” (the “’363 Patent”; Dkt. No. 1-7), and United States Patent No. 6,542,077 entitled “*Monitoring Apparatus For A Vehicle and/or A Premises*” (the

“’077 Patent”; a copy of which is attached hereto as Exhibit A (see also Dkt. No. 63-1 at pp. 199-283) (collectively, “the Patents-in-Suit”). Plaintiff is the owner of the Patents-In-Suit. Plaintiff seeks injunctive relief and monetary damages.

PARTIES

2. JCMS is a limited liability company organized and existing under the laws of the state of Delaware. Plaintiff maintains its principal place of business at 122 Bellevue Place, Yonkers (Westchester County), New York, 10703. Plaintiff is the owner of the Patents-in-Suit, and possesses all rights thereto, including the exclusive right to exclude the Defendant from making, using, selling, offering to sell or importing in this district and elsewhere into the United States the patented invention(s) of the Patents-in-Suit, the right to license the Patents-in-Suit, and to sue the Defendant for infringement and recover past damages.

3. Upon information and belief, Protect America is a corporation duly organized and existing under the laws of the State of Texas since October 28, 1992 and has its principal place of business located at 3800 Quick Hill Road, Building 1-100, Austin (Travis County), Texas, 78728-1312. Upon information and belief, Protect America maintains a corporate office at 5100 N IH-35, Suite B, Round Rock, Texas, 78661. Upon information and belief, Protect America may be served through its Chief Executive Officer, Thad H. Paschall, at 7212 McNeil Drive, Suite 204, Round Rock, Texas, 78729.

JURISDICTION AND VENUE

4. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. §§ 271, 281, 283, 284, and 285. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

5. The Court has personal jurisdiction over Defendant because: Defendant has minimum contacts within the State of Texas and in the Western District of Texas; Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in the Western District of Texas; Defendant has sought protection and benefit from the laws of the State of Texas; Defendant regularly conducts business within the State of Texas and within the Western District of Texas, and Plaintiff's causes of action arise directly from Defendant's business contacts and other activities in the State of Texas and in the Western District of Texas.

6. More specifically, Defendant, directly and/or through its intermediaries, ships, distributes, offers for sale, sells, and/or advertises (including the provision of an interactive web page) its products and services in the United States, the State of Texas, and the Western District of Texas. Upon information and belief, Defendant has committed patent infringement in the State of Texas and in the Western District of Texas. Defendant solicits customers in the State of Texas and in the Western District of Texas. Defendant has many paying customers who are residents of the State of Texas and the Western District of Texas and who use Defendant's products and services in the State of Texas and in the Western District of Texas.

7. Venue is proper in the District of Texas pursuant to 28 U.S.C. §§ 1391 and 1400(b).

BACKGROUND

8. The Patents-in-Suit were duly and legally issued by the United States Patent and Trademark Office ("USPTO") to Mr. Raymond A. Joao after full and fair examination. Mr. Joao assigned all rights, title and interest in and to the Patents-in-Suit to JCMS, giving JCMS the right to exclude Defendant from making, using, selling, offering to sell or importing in this district and

elsewhere in the United States the patented invention(s) of the Patents-in-Suit, and the right to license the Patents-in-Suit, collect damages and initiate lawsuits against the Defendant.

9. Upon information and belief, Defendant has had actual knowledge of the specification and issued claims of the Patents-in-Suit since, at the very latest, the date of service of the Original Complaint in this action, February 20, 2014. Dkt. No. 8.

10. On information and belief, Defendant owns, operates, advertises, implements, and controls its website, www.protectamerica.com (either directly or through a third-party), as well as functionality modules and/or programming modules to support its products and services. In addition to providing information about Defendant's products and services including how to obtain them, this website provides support to Defendant's customers by providing access to user guides, instructional videos, and instruction manuals to assist customers in installing and using Defendant's products and services.

11. On information and belief, Defendant offers to its customers products and services that infringe the Patents-in-Suit, including but not limited to: Protect America's Monitored Home Security system for home security, consisting of various combinations of controls and sensors (i.e., Simon XT Control Panel, Simon XT Touch Screen, motion detectors, door/window sensors, video cameras, glass break sensors, smoke detector, carbon monoxide detector, freeze sensor, flood sensor) which are operated and controlled through remote access by way of interactive cellular and broadband connections with the use of SMART Connect and/or landline connections to servers, and which are monitored by Protect America's redundant monitoring stations (hereinafter, the "Accused Products and Services").

COUNT I: INFRINGEMENT OF U.S. PATENT NO. 6,542,076

12. Plaintiff re-alleges and incorporates by reference each of Paragraphs 1 - 11 above.

13. The '076 Patent was duly and legally issued by the USPTO on April 1, 2003, after full and fair examination for systems and methods for controlling vehicles and/or premises using at least three devices. A Certificate of Correction was issued on July 1, 2003 and a second Certificate of Correction was issued on October 25, 2005. Plaintiff is the owner of the '076 Patent, and possesses all substantive rights and rights of recovery under the '076 Patent with respect to the Defendant, including the right to sue for infringement and recover past damages.

14. Plaintiff is informed and believes that Defendant has infringed and continues to infringe the '076 Patent either literally or under the doctrine of equivalents. Upon information and belief, Defendant has infringed and continues to infringe at least claims 47, 182, 183, 185, 187, 193, 215, 216, 217 and 218 of the '076 Patent by making, using, providing, and/or importing, directly or through intermediaries, in this district and elsewhere in the United States, systems and methods which are comprised of three devices that constitute a control apparatus, including but not limited to the Accused Products and Services. The control apparatus and methods used by Defendant consists of a Simon XT Control Panel, located at a premises, a Server, located remote from the premises (at Protect America's monitoring station), and a user's computer or phone at a location remote from both the premises and the Server. The Simon XT Control Panel, located at the premises, monitors and controls various devices (e.g. motion detectors, door/window sensors, video cameras, glass break sensors, smoke detector, carbon monoxide detector, freeze sensor, flood sensor, etc.) used to detect an event (such as a security breach, a fire or an environmental condition). When an event occurs, the Simon XT Control

Panel sends a signal to the Server, located remote from the premises, which in turn sends a signal to a user's phone and/or computer at a location remote from both the Server and from the premises, displaying to the user information regarding the event. Protect America provides this information through its downloadable software content including SMART Connect app to his/her phone or tablet. The Protect America interactive website is another manner through which Protect America transmits and receives information to the user. The infringing conduct regarding the Accused Products and Services takes place in this district and elsewhere in the United States, enabled by, instructed by, and accessed through Defendant's interactive website and/or SMART Connect application.

15. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

16. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's wrongful acts in an amount subject to proof at trial, 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.

COUNT II: INFRINGEMENT OF U.S. PATENT NO. 6,549,130

17. Plaintiff re-alleges and incorporates by reference each of Paragraphs 1 - 11 above.

18. The '130 Patent was duly and legally issued by the USPTO on April 15, 2003, after full and fair examination for systems and methods for controlling vehicle or premises systems using at least three devices. A Certificate of Correction was issued on July 1, 2003. Plaintiff is the owner of the '130 Patent and possesses all substantive rights and rights of

recovery under the '130 Patent, including the right to sue for infringement and recover past damages.

19. Plaintiff is informed and believes that Defendant has infringed and continues to infringe the '130 Patent either literally or under the doctrine of equivalents. Upon information and belief, Defendant has infringed and continues to infringe at least claims 14, 15, 118, 128 and 129 of the '130 Patent by making, using, providing, and/or importing, directly or through intermediaries, in this district and elsewhere in the United States, systems and methods which are comprised of three devices that constitute a control apparatus, including but not limited to the Accused Products and Services. The control apparatus used by Defendant consists of a Simon XT Control Panel, located at a premises, a Server (at Protect America's monitoring station), located remote from the premises, and a user's computer or phone, at a location remote from both the premises and the Server. The Simon XT Control Panel, located at the premises, monitors and controls various devices (e.g. motion detectors, door/window sensors, video cameras, glass break sensors, smoke detector, carbon monoxide detector, freeze sensor, flood sensor, etc.) used to detect an event (such as a security breach, a fire or an environmental condition). When an event occurs, the Simon XT Control Panel sends a signal to the Server, located remote from the premises, which in turn sends a signal to a user's phone and/or computer at a location remote from both the Server and from the premises, displaying to the user information regarding the event. Protect America provides this information through its downloadable software content including SMART Connect app to his/her phone or tablet. The Protect America interactive website is another manner through which Protect America transmits and receives information to the user. The infringing conduct regarding the Accused Products

and Services takes place in this district and elsewhere in the United States, enabled by, instructed by, and accessed through Defendant's interactive website and/or SMART Connect application.

20. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

21. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's wrongful acts in an amount subject to proof at trial, 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.

COUNT III: INFRINGEMENT OF U.S. PATENT NO. 6,587,046

22. Plaintiff re-alleges and incorporates by reference each of Paragraphs 1 – 11 above.

23. The '046 Patent was duly and legally issued by the USPTO on July 1, 2003 after full and fair examination. A Certificate of Correction was issued on January 20, 2004. Plaintiff is the owner of the '046 Patent, and possesses all right, title and interest in the '046 Patent including the right to enforce the '046 Patent, and the right to sue Defendant for infringement and recover past damages.

24. Plaintiff is informed and believes that Defendant has infringed and continues to infringe the '046 Patent either literally or under the doctrine of equivalents. Upon information and belief, Defendant has infringed and continues to infringe at least claims 33, 55 and 90 of the '046 Patent by making, using, providing, and/or importing, directly or through intermediaries, in this district and elsewhere in the United States, systems and methods which are comprised of three devices that constitute a monitoring apparatus, including but not limited to the Accused

Products and Services. The monitoring method used by Defendant consists of transmitting video information, gathered by a recording device or camera located at a premises, to the Server operated by Protect America, where the video information is processed, wherein the Server then transmits the video information to the user's computer or phone over the Internet upon receipt of a signal from the user's computer or phone via the Internet. The Server is remote from the premises and the user's computer or phone is remote from both the premises and the Server. Protect America provides this video information through its downloadable software content including SMART Connect app to his/her phone or tablet. The Protect America interactive website is another manner through which Protect America transmits and receives (video) information to the user. The infringing conduct regarding the Accused Products and Services takes place in this district and elsewhere in the United States, enabled by, instructed by, and accessed through Defendant's interactive website and/or SMART Connect application.

25. Upon information and belief, Defendant has intentionally induced and continues to induce infringement of at least claims 33, 55 and 90 of the '046 Patent in this district and elsewhere in the United States, by its intentional acts which have successfully, among other things, encouraged, instructed, enabled, and otherwise caused Defendant's customers to use the Accused Products and Services in an infringing manner. Despite knowledge of the '046 Patent as early as the date of service of the Original Complaint in this action, February 20, 2014, Defendant, upon information and belief, continues to encourage, instruct, enable, and otherwise cause its customers to use its systems and methods, in a manner which infringes the '046 Patent. Based upon information and belief, Defendant's source of revenue and business focus is on the provision of, sale, and monitoring of the Accused Products and Services. Upon information and

belief, Defendant has specifically intended its customers to use its systems in such a way that infringes the '046 Patent by, at a minimum, providing and supporting the Accused Products and Services and instructing its customers on how to use them in an infringing manner, at least through information available on Defendant's website including user guides, manuals, and tutorials. Protect America uses the infringing Products and Services, and also intentionally induces and/or instructs its customers on how to use the infringing Products and Services. By way of example, Defendant provides access to, support for, training and instructions for said Accused Products and Services, through information available on Defendant's website including user guides, manuals, tutorials apps and other downloadable software. Also provided on Defendant's website is a link for online chat with a representative for the Defendant to discuss not only how to implement and install the Accused Products and Services, but also how to maintain the Accused Products and Services. In order for a customer of Protect America to use its Products and Services, the customer (user) must open the Protect America website and/or download the software app to his/her phone or tablet. The customer must follow Protect America's instructions for setting up his/her account to take advantage of the Accused Products and Services, as well as for receiving notifications regarding events or occurrences such as a burglary or a state of disrepair of a premises system. These are just a few examples of how Defendant has intentionally induced and continues to induce infringement of one or more claims of the '046 Patent. Defendant knew that its actions, including, but not limited to any of the aforementioned systems and methods, would induce, have induced, and will continue to induce infringement by its customers by continuing to sell, support, and instruct its customers on using the Accused Products and Services.

26. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

27. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's wrongful acts in an amount subject to proof at trial, 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.

28. Defendant's infringement of Plaintiff's rights under the '046 Patent will continue to damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

COUNT IV: INFRINGEMENT OF U.S. PATENT NO. 7,277,010

29. Plaintiff re-alleges and incorporates by reference each of Paragraphs 1 – 11 above.

30. The '010 Patent was duly and legally issued by the USPTO Office on October 2, 2007 after full and fair examination. Plaintiff is the owner of the '010 Patent, and possesses all right, title and interest in the '010 Patent including the right to enforce the '010 Patent, and the right to sue Defendant for infringement and recover past damages.

31. Plaintiff is informed and believes that Defendant has infringed and continues to infringe the '010 Patent either literally or under the doctrine of equivalents. Upon information and belief, Defendant has infringed and continues to infringe at least claims 201, 218 and 242 of the '010 Patent by making, using, providing, and/or importing, directly or through intermediaries, in this district and elsewhere in the United States, systems and methods which are comprised of three devices that constitute a monitoring apparatus, including but not limited to

the Accused Products and Services. The monitoring method used by Defendant consists of transmitting video information, gathered by a recording device or camera located at a premises, to the Server operated by Protect America, where the video information is processed, wherein, upon determination of proper authorization, the Server then transmits the video information to the user's computer or phone over the Internet upon receipt of a signal from the user's computer or phone. The Server is remote from the premises, and the user's computer or phone is remote from both the premises and the Server. Protect America exchanges this information through its downloadable software program(s) including SMART Connect app to his/her phone or tablet. The Protect America interactive website is another manner through which Protect America transmits and receives information to the user. The infringing conduct regarding the Accused Products and Services takes place in this district and elsewhere in the United States, enabled by, instructed by, and accessed through Defendant's interactive website and/or SMART Connect application.

32. Upon information and belief, Defendant has intentionally induced and continues to induce infringement of at least claims 201, 218 and 242 of the '010 Patent in this district and elsewhere in the United States, by its intentional acts which have successfully, among other things, encouraged, instructed, enabled, and otherwise caused Defendant's customers to use the Accused Products and Services in an infringing manner. Despite knowledge of the '010 Patent as early as the date of service of the Original Complaint in this action, February 20, 2014, Defendant, upon information and belief, continues to encourage, instruct, enable, and otherwise cause its customers to use its systems and methods, in a manner which infringes the '010 Patent. Based upon information and belief, Defendant's source of revenue and business focus is on the

provision of, sale, and monitoring of the Accused Products and Services. Upon information and belief, Defendant has specifically intended its customers to use its systems in such a way that infringes the '010 Patent by, at a minimum, providing and supporting the Accused Products and Services and instructing its customers on how to use them in an infringing manner, at least through information available on Defendant's website including user guides, manuals, and tutorials. Protect America uses the infringing Products and Services, and also intentionally induces and/or instructs its customers on how to use the infringing Products and Services. By way of example, Defendant provides access to, support for, training and instructions for said Accused Products and Services, through information available on Defendant's website including user guides, manuals, tutorials apps and other downloadable software. Also provided on Defendant's website is a link for online chat with a representative for the Defendant to discuss not only how to implement and install the Accused Products and Services, but also how to maintain the Accused Products and Services. In order for a customer of Protect America to use its Products and Services, the customer (user) must open the Protect America website and/or download the software app to his/her phone or tablet. The customer must follow Protect America's instructions for setting up his/her account to take advantage of the Accused Products and Services, as well as for receiving notifications regarding events or occurrences such as a burglary or a state of disrepair of a premises system. These are just a few examples of how Defendant has intentionally induced and continues to induce infringement of one or more claims of the '010 Patent. Defendant knew that its actions, including, but not limited to any of the aforementioned systems and methods, would induce, have induced, and will continue to induce

infringement by its customers by continuing to sell, support, and instruct its customers on using the Accused Products and Services.

33. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

34. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's wrongful acts in an amount subject to proof at trial, 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.

35. Defendant's infringement of Plaintiff's rights under the '010 Patent will continue to damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

COUNT V: INFRINGEMENT OF U.S. PATENT NO. 7,397,363

36. Plaintiff re-alleges and incorporates by reference each of Paragraphs 1 – 11 above.

37. The '363 Patent was duly and legally issued by the USPTO on July 8, 2008, after full and fair examination. Plaintiff is the owner of the '363 Patent and possesses all substantive rights and rights of recovery under the '363 Patent, including the right to sue for infringement and recover past damages.

38. Plaintiff is informed and believes that Defendant has infringed and continues to infringe the '363 Patent either literally or under the doctrine of equivalents. Upon information and belief, Defendant has infringed and continues to infringe at least claims 16, 44, 46 and 58 of the '363 Patent by making, using, providing, and/or importing, directly or through

intermediaries, in this district and elsewhere in the United States, systems and methods which are comprised of three devices that constitute an apparatus, including but not limited to the Accused Products and Services. The apparatus used by Defendant consists of a Simon XT Control Panel, located at a premises, a Server operated by Protect America, located remote from the premises, and a user's computer or phone, at a location remote from both the premises and the Server. The user's computer or phone, remote from a premises and the Server, sends a signal over the Internet to the Server, located remotely from the premises. If that signal is deemed authorized via proper credentials, a different signal is then sent to the Simon XT Control Panel from the Server, which activates an associated premise system, such as motion detectors, door/window sensors, video cameras, glass break sensors, smoke detector, carbon monoxide detector, freeze sensor, flood sensor, etc. Protect America exchanges information with the user through its downloadable software content including SMART Connect app, which is available to the user from his/her phone or tablet. The Protect America interactive website is another manner through which Protect America transmits and receives information to and from the user. The infringing conduct regarding the Accused Products and Services takes place in this district and elsewhere in the United States, enabled by, instructed by, and accessed through Defendant's interactive website and/or SMART Connect application.

39. Upon information and belief, Defendant has intentionally induced and continues to induce infringement of at least claims 16, 44, 46 and 58 of the '363 Patent in this district and elsewhere in the United States, by its intentional acts which have successfully, among other things, encouraged, instructed, enabled, and otherwise caused Defendant's customers to use the Accused Products and Services in an infringing manner. Despite knowledge of the '363 Patent

as early as the date of service of the Original Complaint in this action, February 20, 2014, Defendant, upon information and belief, continues to encourage, instruct, enable, and otherwise cause its customers to use its systems and methods, in a manner which infringes the '363 Patent. Based upon information and belief, Defendant's source of revenue and business focus is on the provision of, sale, and monitoring of the Accused Products and Services. Upon information and belief, Defendant has specifically intended its customers to use its systems and methods in such a way that infringes the '363 Patent by, at a minimum, providing and supporting the Accused Products and Services and instructing its customers on how to use them in an infringing manner, at least through information available on Defendant's website including user guides, manuals, and tutorials. Protect America uses the infringing Products and Services, and also intentionally induces and/or instructs its customers on how to use the infringing Products and Services. By way of example, Defendant provides access to, support for, training and instructions for said Accused Products and Services, through information available on Defendant's website including user guides, manuals, tutorials apps and other downloadable software. Also provided on Defendant's website is a link for online chat with a representative for the Defendant to discuss not only how to implement and install the Accused Products and Services, but also how to maintain the Accused Products and Services. In order for a customer of Protect America to use its Products and Services, the customer (user) must open the Protect America website and/or download the software app to his/her phone or tablet. The customer must follow Protect America's instructions for setting up his/her account to take advantage of the Accused Products and Services, as well as for receiving notifications regarding events or occurrences such as a burglary or a state of disrepair of a premises system. These are just a few examples of how

Defendant has intentionally induced and continues to induce infringement of one or more claims of the '363 Patent. Defendant knew that its actions, including, but not limited to any of the aforementioned systems, would induce, have induced, and will continue to induce infringement by its customers by continuing to sell, support, and instruct its customers on using the Accused Products and Services.

40. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

41. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's wrongful acts in an amount subject to proof at trial, 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.

42. Defendant's infringement of Plaintiff's rights under the '363 Patent will continue to damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

COUNT VI:
INFRINGEMENT OF U.S. PATENT NO. 6,542,077

43. Plaintiff re-alleges and incorporates by reference each of Paragraphs 1-11 above.

44. The '077 Patent was duly and legally issued by the USPTO on April 1, 2003, after full and fair examination for systems and methods for controlling vehicles and/or premises using at least three devices. Plaintiff is the owner of the '077 patent, and possesses all substantive rights and rights of recovery under the '077 patent with respect to the Defendant, including the right to sue for infringement and recover past damages.

45. Plaintiff is informed and believes that Defendant has infringed and continues to

infringe the '077 Patent either literally or under the doctrine of equivalents. Upon information and belief, Defendant has infringed and continues to infringe at least claims 27, 29, 30 and 31 of the '077 Patent by making, using, providing, and/or importing, directly or through intermediaries, in this district and elsewhere in the United States, systems which are comprised of three devices that practice a monitoring apparatus, including but not limited to the Accused Products and Services. The monitoring apparatus used by Defendant consists of a Simon XT Control Panel, located at a premises, a Server operated by Protect America, located remote from the premises, and a user's computer or phone, at a location remote from both the premises and the Server. The Simon XT Control Panel, located at a premises, monitors various devices used to detect an event such as a carbon monoxide detector which is activated by rising carbon monoxide levels directly related to faulty consumer products. When a state of disrepair is detected (activation of the carbon monoxide detector), the Simon XT Control Panel sends a signal to the Server operated by Protect America, located remote from premises, that in turn sends a signal to a user's computer or phone, remote from both the premises and the Server, displaying to the user information regarding the state of disrepair. This apparatus and its attendant functions take place in this district and elsewhere in the United States, enabled by and accessed through Defendant's website and/o SMART Connect Application.

46. Upon information and belief, Defendant has intentionally induced and continues to induce infringement of at least claims 27, 29, 30 and 31 of the '077 patent in this district and elsewhere in the United States, by its intentional acts which have successfully, among other things, encouraged, instructed, enabled, and otherwise caused its customers to use the Accused Product. Despite knowledge of the '077 patent as early as the date of service of the Original

Complaint in this action, February 20, 2014, Defendant, upon information and belief, continues to encourage, instruct, enable, and otherwise cause its customers to use the Accused Products and Services in a manner which infringes the '077 patent. Upon information and belief, Defendant has specifically intended its customers to use the Accused Products and Services in such a way that infringes the '077 patent by, at a minimum, providing and supporting the Accused Products and Services and instructing its customers on how to use them in an infringing manner, at least through information available on Defendant's website including user guides, manuals, and tutorials. Protect America uses the infringing Products and Services, and also intentionally induces and/or instructs its customers on how to use the infringing Products and Services. By way of example, Defendant provides access to, support for, training and instructions for said Accused Products and Services, through information available on Defendant's website including user guides, manuals, tutorials apps and other downloadable software. Also provided on Defendant's website is a link for online chat with a representative for the Defendant to discuss not only how to implement and install the Accused Products and Services, but also how to maintain the Accused Products and Services. In order for a customer of Protect America to use its Products and Services, the customer (user) must open the Protect America website and/or download the software app to his/her phone or tablet. The customer must follow Protect America's instructions for setting up his/her account to take advantage of the Accused Products and Services, as well as for receiving notifications regarding events or occurrences such as a burglary or a state of disrepair of a premises system. These are just a few examples of how Defendant has intentionally induced and continues to induce infringement of one or more claims of the '077 Patent. Defendant knew that its actions, including, but not

limited to any of the aforementioned systems and methods, would induce, have induced, and will continue to induce infringement by its customers by continuing to sell, support, and instruct its customers on using the Accused Products and Services.

47. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

48. Despite its knowledge of the '077 patent, known of at least since the date of service of the Original Complaint in this action, February 20, 2014, and without a reasonable basis for continuing the infringing activities described in the preceding paragraphs, on information and belief, Defendant has willfully infringed and continues to willfully infringe the '077 patent.

49. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's wrongful acts in an amount subject to proof at trial, 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.

50. Defendant's infringement of Plaintiff's rights under the '077 Patent will continue to damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

JURY DEMAND

51. Plaintiff demands a trial by jury on all issues.

PRAYER FOR RELIEF

Plaintiff respectfully requests that Court find in its favor and against Defendant, and that the Court grant Plaintiff the following relief:

- A. An adjudication that one or more of the identified claims of the Patents-in-Suit have been infringed, either literally and/or under the doctrine of equivalents, by the Defendant and/or its customers;
- B. An adjudication that Defendant has induced infringement of one or more of the identified claims of the '010, '077, '363 and '046 Patents;
- C. An award of damages to be paid by Defendant adequate to compensate Plaintiff for its past infringement and any continuing or future infringement up until the date such judgment is entered, including interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if necessary to adequately compensate Plaintiff for Defendant's infringement, an accounting of all infringing sales including, but not limited to, those sales not presented at trial;
- D. A grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining the Defendant from further acts of infringement with respect to the claims of the Patents-in-Suit;
- E. That this Court declare this to be an exceptional case and award Plaintiff its reasonable attorneys' fees and costs in accordance with 35 U.S.C. § 285; and,
- F. Any further relief that this Court deems just and proper.

Respectfully submitted May 20, 2015.

/s/_____
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CERTIFICATE OF SERVICE

I hereby certify that on _____ 2015, I electronically filed **PLAINTIFF'S CORRECTED THIRD AMENDED COMPLAINT** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following attorneys of record:

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