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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IRON GATE SECURITY, INC.,	:	ECF CASE
	:	
Plaintiff,	:	Civil Action No. 15-cv-8814-SAS
v.	:	
	:	
LOWE’S COMPANIES, INC.,	:	
	:	
Defendant.	:	
	:	x

SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Iron Gate Security, Inc. files this Second Amended Complaint against Lowe’s Companies, Inc. for patent infringement of U.S. Patent Nos. 6,288,641 and 7,203,693 and hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*

PARTIES

2. Plaintiff Iron Gate Security, Inc. ("Iron Gate") is a Delaware corporation having a place of business at 780 3rd Avenue, 12th Floor, New York, New York 10017.

3. On information and belief, Defendant Lowe's Companies, Inc. ("Lowe's") is a North Carolina corporation with its principal place of business at 1000 Lowe's Boulevard, Mooresville, North Carolina 28117.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), (c), (d), and 1400(b).

6. On information and belief, this Court has personal jurisdiction over Lowe's by reason of Lowe's acts of patent infringement that have been committed in this judicial district, and by virtue of its regularly conducted and systematic business contacts in this judicial district. As such, Lowe's has purposefully availed itself of the privilege of conducting business within this judicial district; has established sufficient minimum contacts with this judicial district such that it should reasonably and fairly anticipate being hauled into court in this judicial district; has purposefully directed activities at residents of this judicial district; and at least a portion of the patent infringement claims alleged herein arise out of or are related to one or more of the foregoing activities.

BACKGROUND

7. On September 11, 2001, the U.S. Patent and Trademark Office duly and lawfully issued U.S. Patent No. 6,288,641 ("the '641 Patent"), entitled "Assembly, And Associated Method, For Remotely Monitoring A Surveillance Area." The '641 Patent was filed on

September 15, 1999. A true and correct copy of the '641 Patent is attached to this Second Amended Complaint as Exhibit A.

8. The '641 Patent relates to, amongst other things, the use of a mobile terminal to remotely monitor a surveillance location (*e.g.*, home or business).

9. The inventor of the '641 Patent is Eduardo Casais. At the time of the invention, Mr. Casais worked for Nokia, a worldwide leader in research and development related to wireless infrastructure and mobile handset technologies. The '641 Patent was initially assigned by Mr. Casais to Nokia.

10. Iron Gate is presently the owner by assignment of the '641 Patent and possesses all of the rights of recovery under the '641 Patent, including the right to sue and recover damages for infringement of claims of the '641 Patent.

11. Mobile applications (or "apps") for remotely monitoring homes and businesses have started to become available to consumers over the past several years. Lowe's is a company that offers such mobile apps as well as the underlying remote surveillance equipment and services used with such mobile apps.

12. On April 10, 2007, the U.S. Patent and Trademark Office duly and lawfully issued U.S. Patent No. 7,203,693 ("the '693 Patent"), entitled "Instantly Indexed Databases for Multimedia Content Analysis and Retrieval." The '693 Patent was filed on June 12, 2002. A true and correct copy of the '693 Patent is attached to this Second Amended Complaint as Exhibit B.

13. The '693 Patent relates to, amongst other things, indexing multimedia data based on motion associated with a person or object.

14. The inventors of the '693 Patent are Ingrid Carlbom, Yves Jean, Agata Opalach, and Gopal Pingali. The '693 Patent was originally developed at and assigned to Lucent Technologies Inc., a worldwide leader in research and development related to networking equipment.

15. Iron Gate is presently the owner by assignment of the '693 Patent and possesses all of the rights of recovery under the '693 Patent, including the right to sue and recover damages for infringement of claims of the '693 Patent.

16. Lowe's offers cameras that record video and/or still images ("image data") automatically upon detecting motion. The image data is indexed on a Lowe's device(s) and is associated with the camera that recorded the image data and/or the location where the image data was recorded.

FIRST CLAIM FOR RELIEF
Infringement Of U.S. Patent No. 6,288,641 By Lowe's

17. The allegations set forth above are hereby realleged and incorporated herein by reference.

18. Lowe's manufactures, uses, sells, offers to sell, and/or imports remote monitoring products, systems, and services in the United States that infringe at least claims 1, 15, and 22 of the '641 Patent. Lowe's commits acts of direct patent infringement through the manufacture, use, sale, offer for sale, and/or importation of at least assemblies and apparatus including the Iris Smart Home Management System and its components such as Iris cameras, Iris Smart Hub, and backend servers, and/or Iris mobile apps.

19. Since at least 2013 Lowe's itself (or those acting on its behalf) has used and continues to use the Iris Smart Home Management System along with mobile terminals (*e.g.*, cellular phones) (with Iris mobile app) to test and demonstrate the Iris system with Iris mobile

apps. On information and belief, such demonstrations have occurred at multiple trade shows over the past several years. *See, e.g.*, <https://www.youtube.com/watch?v=J-N26fXEfM4> (at 0:28) (video showing an Iris booth at a trade show). On information and belief, Lowe's has itself used and continues to use the Iris Smart Home Management System along with mobile terminals (*e.g.*, cellular phones) (with Iris mobile app) in its online videos in order to demonstrate to customers how to use Iris mobile apps. *See, e.g.*, <https://www.youtube.com/watch?v=xbcn3tFg7OA> (at 2:00) (Lowe's instructional video).

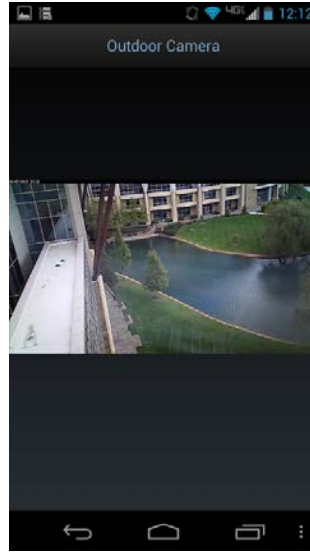
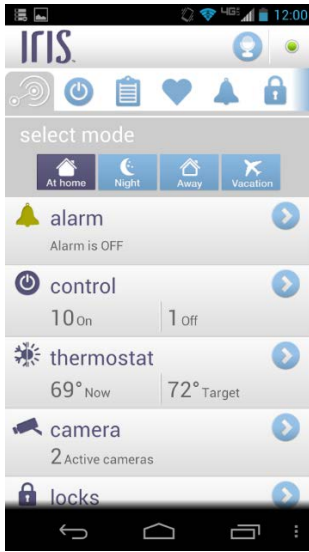
20. Iris cameras operate with Iris mobile apps, the Iris Smart Hub, and/or backend servers such that Lowe's provides assemblies, apparatus, systems, and/or methods for monitoring of surveillance areas that infringe at least claims 1, 15, and 22 of the '641 Patent.

21. Iris cameras, which function as the claimed transducers, include at least Iris indoor (model RC8221) and outdoor (model OC821) security cameras:



http://www.lowes.com/pd_396427-1353-RC8221_0__?productId=3724288; http://www.lowes.com/pd_474322-1353-OC821_0__?productId=4756879.

22. Iris mobile apps are provided via mobile download sites such as the Apple iTunes and Google Play Store:



<https://play.google.com/store/apps/details?id=com.lowes.iris&hl=en>; <https://itunes.apple.com/us/app/iris-by-lowes/id540099398?mt=8>.

23. Using the Iris mobile app, a user can select a camera from a listing of cameras in order to obtain streaming video from that camera.

24. The Iris Smart Hub is described on the Lowe's website:



Description	Specifications	Reviews	Community Q&A
<p>Got an update or addition to this product's details? Share it here.</p> <p>Iris Smart Hub</p> <ul style="list-style-type: none">• Core of all Iris™; Smart Home systems that adds intelligence and management for all in-home Iris™; devices• Customize how your Iris™; Smart Home system communicates with you• Connect security, energy and temperature management devices• Create custom use scenarios by adding the devices you need• USB port is located on the bottom of the Smart Hub to accommodate plug-in devices			

http://www.lowes.com/pd_488795-99899-HUB520___?productId=50425948&pl=1&Ntt=iris



Description	Specifications	Reviews	Community Q&A
<p>Got an update or addition to this product's details? Share it here.</p>			
<p>Smart Hub</p> <ul style="list-style-type: none"> • Updated to most recent firmware – Version V2.0.1.057 • New functionality includes Iris Care and Lawn/Garden Services (Additional devices may be required) • The Iris hub commands your smart devices providing complete control over your home • Use your hub to set up your own wireless Iris security system (Iris Professional Monitoring Coming in 2016) • Pair with an Iris starter pack to get started with Iris today (Iris Home Security Pack – Item #753205; Iris Home Automation Pack – Item #753204) • The Iris Smart Hub includes ZigBee and Z-Wave radios • Control using the Iris by Lowe's App available on iOS and Android (Supported by iOS 8.0+ operating on iPhone 5+ and Android 4.1) • Pair your Iris Smart Hub with over 70 devices. Looked for the "Works with Iris" logo throughout the store. Iris partners include: GE, Schlage, Kwikset, Whirlpool, Honeywell, First Alert, OSRAM Lightify, Genie, NYCE, Keen, Orbit, PetSafe, leak • Items in the box include: hub, power cord, Ethernet cord, and AA-batteries to be used for backup purposes. 			

http://www.lowes.com/pd_690404-41277-9402-L_0__?productId=999925318.

25. Lowe's has also been put on notice of the '641 Patent at least as early as the end of April 2015, as well as by the filing and service of the original Complaint in this action.

26. On information and belief, at least since its knowledge of the '641 Patent, Lowe's knowingly encouraged, and continues to encourage, current and potential customers to directly infringe at least claims 1, 15, and 22 of the '641 Patent including by its actions that include, without limitation, instructing and encouraging users to use Iris cameras, the Iris Smart Hub, backend servers, and/or Iris mobile apps through Lowe's in-store offer as well as promotional and instructional materials, including through its website instructions and its user and instruction manuals, in a manner to perform methods of remotely monitoring a surveillance area, and to provide and/or assemble one or more assemblies, apparatus, and/or systems for monitoring of surveillance areas, that infringe at least claims 1, 15, and 22 of the '641 Patent.

27. Lowe's instructed and continues to instruct customers how to set up, use, and troubleshoot its cameras and mobile apps. (*See, e.g.*, Exh. C, RC8221 Iris Camera Set-Up Guide; Exh. D, OC821 Iris Outdoor Camera Set-Up Guide.)

28. Lowe's customers directly infringe at least claims 1, 15, and 22 of the '641 Patent through their setup and use of Iris cameras, the Iris Smart Hub, backend servers, and/or Iris mobile apps.

29. On information and belief, Lowe's is in violation of 35 U.S.C. §§ 271(b) and (c), and has been, at least since its knowledge of the '641 Patent, indirectly infringing, and continues to infringe indirectly, at least one or more claims of the '641 Patent by knowingly and specifically intending to contribute or induce infringement by others (*e.g.*, including but not limited to current and potential customers) via at least the acts of advertisements, promotional materials, and instructions to use Iris cameras and mobile apps that are specifically configured to act according to the claims of the '641 Patent and do not have substantial noninfringing uses.

30. Iron Gate has been damaged by the indirect and direct infringement of Lowe's and is suffering and will continue to suffer irreparable harm and damage as a result of this infringement unless such infringement is enjoined by this Court.

SECOND CLAIM FOR RELIEF
Infringement Of U.S. Patent No. 7,203,693 By Lowe's

31. The allegations set forth above are hereby realleged and incorporated herein by reference.

32. Lowe's manufactures, uses, sells, offers to sell, and/or imports remote monitoring products, systems, and services in the United States that infringe at least claim 1 of the '693 Patent. Lowe's commits acts of direct patent infringement through the manufacture, use, sale, offer for sale, and/or importation of the Iris Smart Home Management System (and its

components such as Iris cameras, Iris Smart Hub, and backend servers, and/or Iris mobile apps) which indexes data (*e.g.*, videos) in response to detecting motion.

33. The Iris Smart Home Management System allows rules to be set to automatically control various devices upon detecting motion (“Rules Feature”). (*See* <https://www.youtube.com/watch?v=KJLIheYNzek>; <https://www.youtube.com/watch?v=x29V IrrxTp4>).

34. Using the Rules Feature, upon detecting motion, the Iris Smart Home Management System can automatically activate Iris cameras to record video. (*See, e.g.*, http://www.lowes.com/pd_396427-1353-RC8221_0__?productId=3724288; http://www.lowes.com/pd_474322-1353-OC821_0__?productId=4756879; <https://www.irisbylowes.com/> (“Set your camera to record and send you an alert any time motion is sensed.”)).

35. On information and belief, the Iris Smart Home Management System indexes, in the Iris Smart Hub and/or backend server, video associated with motion by a person or object within a surveillance location (*e.g.*, home or business). On information and belief, the Iris Smart Home Management System: (a) processes data from a motion sensor and/or video camera as it detects motion by a person or object within the surveillance location; (b) obtains pre-existing data, *e.g.*, about the location/name/identifier of the motion/video camera where motion is detected; and (c) indexes image data contemporaneous with the motion being detected within the surveillance location. On information and belief, indexing is based on the image data and the location/name/identifier of the motion/video camera and the index is usable to retrieve the image data by creating one or more cross-indexes associating the image data and the location/name/identifier of the motion/video camera.

36. Lowe's itself has used and continues to use the Iris Smart Home Management System to test and demonstrate the Rules Features and motion activated video recording. On information and belief, such demonstrations have occurred at multiple trade shows over the past several years. Lowe's itself has used and continues to use the Iris Smart Home Management System in its online videos in order to demonstrate to customers how to use the Rules Features and motion activated video recordings. (See <https://www.youtube.com/watch?v=KJLIheYNzek>; <https://www.youtube.com/watch?v=x29V IrrxTp4>).

37. Lowe's has also been put on notice of the '693 Patent at least by the filing and service of this Second Amended Complaint.

38. Iron Gate has been damaged by the direct infringement of Lowe's and is suffering and will continue to suffer irreparable harm and damage as a result of this infringement unless such infringement is enjoined by this Court.

WILLFUL INFRINGEMENT

39. When the original Complaint was filed on November 9, 2015, Lowe's was on notice of the '641 Patent and Iron Gate's infringement allegations for nearly seven months — since April 2015.

40. On January 13, 2015, nine months after being on notice of the '641 Patent and Iron Gate's infringement allegations, Lowe's filed a motion to dismiss in which the only noninfringement position presented to the Court with regard to direct infringement was that each claim of the '641 Patent requires a mobile terminal, and since Lowes does not *manufacture* or *sell* cellular phones or other mobile devices, Lowe's cannot directly infringe the '641 Patent.

41. This defense was objectively reckless since Iron Gate had alleged infringement by Lowe's *use* of mobile terminals and by Lowe's *use and sale* of its Iris mobile application which, when installed on a cellular device, constituted the claimed mobile terminal.

42. In addition, neither independent claim 15 nor 22 requires a direct infringer to make, use, sell, or offer to sell said mobile terminal.

43. Other than the issues raised in its motion to dismiss, since April 2015, Lowe's has not provided any response to Iron Gate's infringement allegations in which Lowe's sets forth a defense regarding the '641 Patent.

44. After being put on notice in April 2015, it was objectively reckless and unreasonable for Lowe's to rely on such a noninfringement position (paragraph 26, above) as Lowe's, on information and belief, continued to make, use, sell offer to sell, or import the Iris system with Iris mobile apps.

45. With regard to claim 1 of the '641 Patent, on information and belief, since at least 2013 Lowe's (or those acting on its behalf) has *used* and *continues to use* mobile terminals (*e.g.*, cellular phones) to test and demonstrate the Iris system with Iris mobile apps. On information and belief, such demonstrations have occurred at multiple trade shows over the past several years. *See, e.g.*, <https://www.youtube.com/watch?v=J-N26fXEfM4> (at 0:28) (video showing an Iris booth at a trade show).

46. On information and belief, Lowe's also uses mobile devices in its online videos in order to demonstrate to customers how to use Iris mobile apps. *See, e.g.*, <https://www.youtube.com/watch?v=xbcn3tFg7OA> (at 2:00) (Lowe's instructional video).

47. On information and belief, at least as early as May 2015, Lowe's was aware that a number of other companies, including some of the largest companies in the remote monitoring industry and security industry, had taken a license to the '641 Patent.

48. As of the filing of the original Complaint, on information and belief, Lowe's continued to make, use, sell, offer for sale, and/or import its Iris system, including Iris mobile

apps, and continues to provide user manuals/guides, demonstrations, as well as videos instructing customers how to install, operate, and use the Iris system/Iris mobile app.

49. As of the filing of the Amended Complaint and this Second Amended Complaint, on information and belief, Lowe's continues to make, use, sell, offer for sale, and/or import its Iris system, including Iris mobile apps, and continues to provide user manuals/guides, demonstrations, as well as videos instructing customers how to install, operate, and use the Iris system/Iris mobile app.

50. Between April 2015 and the filing of the original Complaint, Lowe's was objectively reckless, and acted despite an objectively high likelihood that its actions constituted infringement of a valid patent, in continuing to make, use, sell, offer for sale, and/or import its Iris system/Iris mobile apps and continuing to provide user manuals/guides, demonstrations, as well as videos instructing customers how to install, operate, and use the Iris system/Iris mobile app.

51. Between the filing of the original Complaint and the Amended Complaint and between the Amended Complaint and this Second Amended Complaint, Lowe's was objectively reckless, and acted despite an objectively high likelihood that its actions constituted infringement of a valid patent, in continuing to make, use, sell, offer for sale, and import its Iris system, including Iris mobile apps, and continuing to provide user manuals/guides, demonstrations, as well as videos instructing customers how to install, operate, and use the Iris system/Iris mobile app.

52. The continued infringement by Lowe's of the '641 Patent is deliberate and willful, entitling Iron Gate to increased damages under 35 U.S.C. § 284 and to attorney fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Iron Gate requests entry of judgment in its favor and against Lowe's as follows:

- A. finding that Lowe's has infringed one or more claims of the '641 Patent;
- B. finding that Lowe's has infringed one or more claims of the '693 Patent;
- C. finding that Lowe's has willfully infringed one or more claims of the '641 Patent;
- D. permanently enjoining Lowe's and its respective officers, directors, agents, employees, attorneys, licensees, successors, assigns, and those acting in concert or participation with them from infringing the '641 Patent;
- E. awarding Iron Gate damages under 35 U.S.C. § 284, or as otherwise permitted by law, including supplemental damages for any continued postverdict infringement together with prejudgment and postjudgment interest on the damages award and costs and enhancement for willful infringement;
- F. awarding costs of this action (including all disbursements) and attorney fees pursuant to 35 U.S.C. § 285, or as otherwise permitted by law; and
- G. awarding such other costs and further relief that the Court determines to be just and equitable.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), Iron Gate hereby demands a trial by a jury on all issues so triable.

Respectfully submitted,

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Dated: May 25, 2016

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