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

IRON GATE SECURITY, INC.,	:	ECF CASE
	:	
Plaintiff,	:	Civil Action No. 1:17-cv-01911
	:	
v.	:	
	:	
VIVINT, INC.,	:	
	:	
Defendant.	:	
	:	x

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Iron Gate Security, Inc. (“Iron Gate”) files this Complaint against Vivint, Inc. (“Vivint”) for patent infringement of U.S. Patent No. 6,288,641 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 is a Delaware corporation having a place of business at 780 Third Avenue, 12th Floor, New York, New York 10017.

3. On information and belief, Defendant Vivint is a Utah corporation with its principal place of business at 4931 North 300 West, Provo, UT 84604.

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/or 1400(b).

6. On information and belief, this Court has personal jurisdiction over Vivint by reason of Vivint'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. See e.g., <https://www.vivint.com/stores/state/new-york>; <https://www.vivint.com/stores/city/new-york-new-york>. As such, Vivint 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 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. Systems for remotely monitoring homes and businesses, including cameras, servers and mobile apps, have started to become available to consumers over the past several years. Vivint is a company that offers the underlying remote surveillance equipment and services used with such mobile apps.

FIRST CLAIM FOR RELIEF
Infringement of U.S. Patent No. 6,288,641 By Vivint

12. The allegations set forth above are hereby re-alleged and incorporated herein by reference.

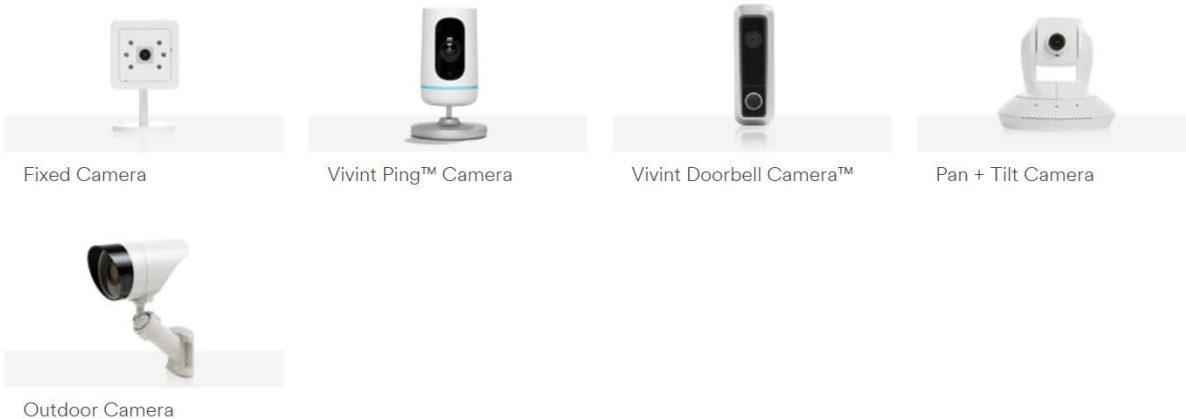
13. Vivint manufactures, uses, sells, offers to sell, and/or imports remote monitoring products, systems, and services in the United States that infringe at least claims 1, 15, and 22 of the '641 Patent. Vivint commits acts of direct and/or indirect patent infringement through the manufacture, use, sale, offer for sale, and/or importation of assemblies and apparatus including cameras (fixed camera, outdoor camera, Ping camera, doorbell camera, pan and tilt camera) (“Vivint Cameras”), backend servers, Vivint SkyControl panel, Playback hub and/or Vivint Smart Home/Sky mobile apps (“Vivint Sky mobile apps”).

14. On information and belief, Vivint itself (or those acting on its behalf) has used and continues to use mobile terminals (*e.g.*, cellular phones) (with Vivint Sky mobile apps) to test and demonstrate Vivint Cameras, backend servers, Vivint SkyControl panel, Playback hub and/or Vivint Sky mobile apps. https://www.youtube.com/watch?v=_bYN265p-u4; https://www.youtube.com/watch?v=_9KfL OzcWpE

15. Vivint has itself used and continues to use mobile terminals (*e.g.*, cellular phones) with at least Vivint Sky mobile apps in its online videos in order to demonstrate to customers how to use the Vivint Sky mobile apps and assembly and apparatus. <https://www.youtube.com/watch?v=RW35wvR5M7k>; <https://www.youtube.com/user/VivintHome>; <https://www.youtube.com/watch?v=5qXEfnkxr7A>; <https://www.youtube.com/watch?v=xX9cM49A6hs>; <https://www.youtube.com/watch?v=YRkMSDOW5d0>

16. Vivint Cameras operate with Vivint Sky mobile apps, backend servers and Playback hub such that Vivint provides assemblies, apparatus, systems, and/or methods for monitoring of surveillance areas (*e.g.*, locations in a home or office) that infringe at least claims 1, 15, and 22 of the '641 Patent.

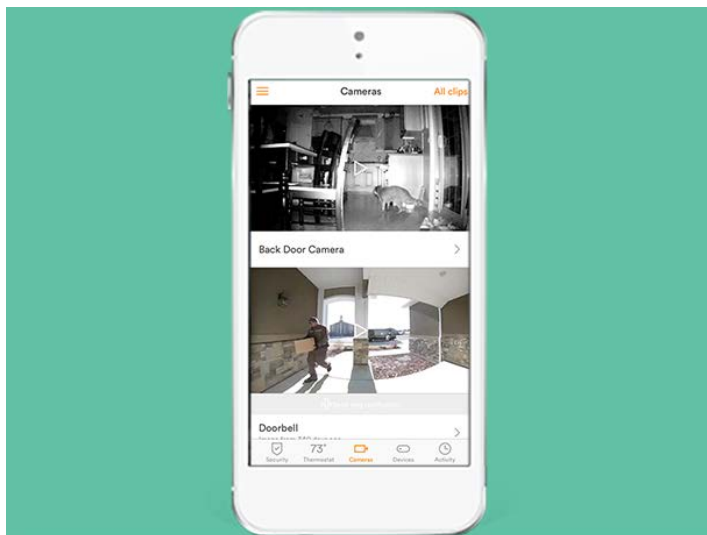
17. The Vivint Cameras, which function as the claimed transducers, include at least the following cameras:



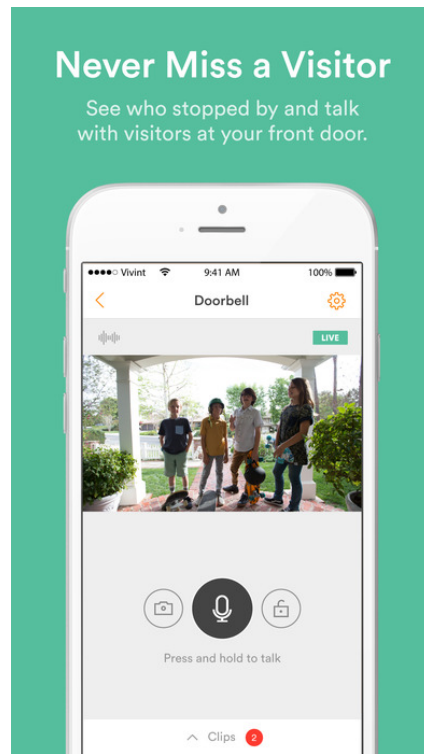
<https://www.vivint.com/products/outdoor-camera>; <https://www.vivint.com/products/ping>; <https://www.vivint.com/products/doorbell-camera>; <https://www.vivint.com/packages/security-cameras>; <https://support.vivint.com/>

18. Vivint Sky mobile apps are provided via mobile download sites such as the Apple iTunes and Google Play Store. <https://itunes.apple.com/us/app/vivint-smart-home/id734547946?mt=8>; <https://play.google.com/store/apps/details?id=com.vivint.vivintsky&hl=en>; <https://www.vivint.com/products/sky-app>

19. Using Vivint Sky mobile apps, a user can select a camera from a listing of Vivint Cameras in order to obtain live feeds or recorded video clips from that camera, backend servers and/or Playback hub in order to monitor a surveillance area. <https://support.vivint.com/how-to/sky-app-view-live-recorded-video>; <https://support.vivint.com/product/playback>; <http://citysmarthomes.com/vivint-space-monkey-playback-dvr/>



20. Vivint Sky mobile apps also enable users to talk to visitors at a door using the Vivint doorbell camera.



21. Using Vivint Sky mobile apps, a user can obtain the day's recorded events or video clips of specific events that were recorded.

22. Vivint offers local video storage on a Playback hub made by Space Monkey. <https://www.vivint.com/products/video-recording>; <https://support.vivint.com/product/playback>; <https://www.vivint.com/space-monkey>



FAQ

Where is my Playback footage saved?

All Playback footage from your cameras is stored locally on your Space Monkey device that you can then access from your Vivint Smart Home app. Unlike photos, clips and files saved to your Space Monkey, your Playback footage is not uploaded to the cloud.

23. At least the backend servers and/or Vivint SkyControl panel function as the claimed controller. <https://www.vivint.com/products/sky-panel>; <https://support.vivint.com/how-to/sky-panel-view-video>

24. On information and belief, backend servers and/or Vivint SkyControl panel instruct Vivint Cameras to record certain events. <https://www.vivint.com/products/video-recording>

25. Vivint has also been on notice of the '641 Patent at least as early as the filing and service of the Complaint in this action.

26. Upon information and belief, at least since its post-filing knowledge of the '641 Patent, Vivint knowingly encouraged, and continues to encourage, current and potential customers to directly infringe one or more claims of the '641 Patent including by its actions that include, without limitation, instructing and encouraging users to use Vivint Cameras, backend servers, Vivint SkyControl panel, Playback hub and/or Vivint Sky mobile apps through Vivint's promotional and instructional materials, including through its website instructions and its user and instruction manuals.

27. Vivint instructed and continues to instruct customers how to set up, use, and troubleshoot its cameras and mobile apps including on its own www.vivint.com website that provides support and videos on setting up (of camera and mobile app) and using these products. <https://support.vivint.com/>

28. Vivint customers directly infringe at least claims 1, 15 and 22 of the '641 Patent through their set up and use of Vivint Cameras, backend servers, Vivint SkyControl panel, Playback hub and/or Vivint Sky mobile apps.

29. Upon information and belief, Vivint is in violation of 35 U.S.C. § 271(b), and has been, at least since its post-filing knowledge of the '641 Patent, indirectly infringing, and continues to infringe indirectly, at least claims 1, 15 and 22 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) and possessing specific intent to encourage infringement by its customers via at least the acts of advertisements, promotional materials, and instructions to use Vivint Cameras, backend servers, Vivint SkyControl panel, Playback hub

and/or Vivint Sky mobile apps that are specifically configured to act according to the claims of the '641 Patent, are material parts of the invention, and do not have substantial non-infringing uses.

30. Vivint Cameras, backend servers, Vivint SkyControl panel, Playback hub and/or Vivint Sky mobile apps constitute transducers, controllers and mobile device software, respectively, that, as sold and/or as used, are only capable of use for remotely monitoring a surveillance area using a mobile terminal in accordance with claims 1, 15 and 22 of the '641 Patent.

31. Iron Gate has been damaged by the direct and/or indirect infringement of Vivint 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.

PRAYER FOR RELIEF

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

- A. finding that Vivint has infringed one or more claims of the '641 Patent;
- B. permanently enjoining Vivint 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;
- C. awarding Iron Gate damages under 35 U.S.C. § 284, or as otherwise permitted by law, including supplemental damages for any continued post-verdict infringement together with prejudgment and post judgment interest on the damages award and costs and enhancement for willful infringement;
- D. 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

