UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

ECOFACTOR, INC., Plaintiff, v. ALARM.COM INCORPORATED and ALARM.COM HOLDINGS, INC., Defendants.	Case No. 6:20-cv-00076 **JURY TRIAL DEMANDED**

COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement arising under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.*, in which Plaintiff EcoFactor, Inc. ("Plaintiff" or "EcoFactor") makes the following allegations against Defendants Alarm.com Incorporated and Alarm.com Holdings, Inc. ("Defendants"):

INTRODUCTION

1. This complaint arises from Defendants' unlawful infringement of the following United States patents owned by EcoFactor: U.S. Patent No. 8,180,492 ("'492 Patent"); U.S. Patent No. 8,412,488 ("'488 Patent"); U.S. Patent No. 8,738,327 ("'327 Patent"); and U.S. Patent No. 10,534,382 ("'382 Patent") (collectively the "Asserted Patents").

PARTIES

2. EcoFactor is a privately held company, having its principal place of business at

441 California Avenue, Number 2, Palo Alto, CA 94301.[1] EcoFactor was founded in 2006 and is headquartered in Palo Alto, California. EcoFactor is a leader in smart home energy management services. EcoFactor delivers smart home energy management services that improve energy efficiency, reduce energy bills and vastly increase demand response efficacy – all while maintaining consumer comfort. EcoFactor's patented big-data analytics and machine learning algorithms collect and process massive amounts of residential data – including home thermodynamics, family comfort preferences and schedules, plus external data such as weather – to continually monitor, adapt and learn for optimum energy savings. The company provides homeowners significant cost savings and energy usage benefits. EcoFactor's award-winning service has been offered through channel partners such as utilities, energy retailers, broadband service providers and HVAC companies.

3. EcoFactor has transformed how homes use energy by applying advanced analytics to connected devices in the home. EcoFactor's platform actively manages thermostats on occupants' behalf in intelligent ways that improve comfort while helping them save time, energy and money. Utilities, home service providers and homeowners rely on EcoFactor for demand response, energy efficiency, and HVAC performance monitoring services.

4. The HVAC industry and researchers in the field recognize the technological and commercial impact of EcoFactor's patented technologies and innovations. For example, EcoFactor's demand response solution has been recognized multiple times from the Association of Energy Services Professionals (AESP) for outstanding achievement in pricing and demand response. EcoFactor was also named "Innovator of the Year" by San Mateo County Economic

[1] Prior to October 2019, EcoFactor's principal place of business was at 1450 Veterans Blvd., Suite 100, Redwood City, CA 94063.

Development Association for EcoFactor's automated approach to energy efficiency and demand response services, and has also been named Owler HOT in Redwood City, CA. Moreover, EcoFactor received Powergrid International's Demand Response/Energy Efficiency Project of the Year award, and was assessed as one of the top innovators with some of the most commercially important smart home patents.

5. Alarm.com Incorporated and Alarm.com Holdings, Inc. are both Delaware corporations with their principal place of business at 8281 Greensboro Drive, Suite 100, Tysons, VA 22102.

JURISDICTION AND VENUE

6. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over Defendants in this action because Defendants have committed acts within this District giving rise to this action, and have established minimum contacts with this forum such that the exercise of jurisdiction over Defendants would not offend traditional notions of fair play and substantial justice. Defendants, directly and through subsidiaries or intermediaries, has committed and continue to commit acts of infringement in this District by, among other things, importing, offering to sell, and selling products that infringe the asserted patents.

8. Venue is proper in this District under 28 U.S.C. § 1400(b). Upon information and belief, Defendants have transacted business in this District and have committed acts of direct and indirect infringement in this District by, among other things, making, using, offering to sell, selling, and importing products that infringe the asserted patents. In addition, Defendants have at

least one regular and established place of business in the District. *See, e.g.,* https://www.alarm.com/US/atxalarm?home=1. Moreover, Alarm.com is a party in at least one patent case that it moved to, and which is pending in, this District. *See, e.g., Alarm.com Incorporated et al. v. Protect America, Inc.*, 1-18-cv-00521 (WDTX), demonstrating that this District is also convenient for it.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 8,180,492

9. Plaintiff realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

10. Plaintiff is the owner and assignee of United States Patent No. 8,180,492 titled "System and method for using a networked electronic device as an occupancy sensor for an energy management system." The '492 Patent was duly and legally issued by the United States Patent and Trademark Office on May 15, 2012. Plaintiff is the owner and assignee, possessing all substantial rights, to the '492 Patent. A true and correct copy of the '492 Patent is attached as Exhibit 1.

11. Defendants make, use, offer for sale, sell, and/or import into the United States certain products and services that directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the '492 Patent, and continue to do so. By way of illustrative example, these infringing products and services include, without limitation, Defendants' products and services, *e.g.*, ADC-T2000 and T3000 smart thermostats, the Alarm.com application and all versions and variations thereof since the issuance of the '492 Patent ("Accused Instrumentalities").

12. Defendants have had knowledge of the ’492 patent from a date no later than the date of filing of this complaint. Defendants have known how the Accused Products are made and have known, or has been willfully blind to the fact, that making, using, offering to sell, and selling the accused products within the United States, or importing the Accused Products into the United States, would constitute infringement.

13. Defendants have induced, and continue to induce, infringement of the ’492 patent by actively encouraging others (including distributors and end customers) to use, offer to sell, sell, and import the Accused Products. On information and belief, these acts include providing information and instructions on the use of the Accused Products; providing information, education and instructions supporting sales by distributors; providing the Accused Products to distributors; and indemnifying patent infringement within the United States.

14. Defendants have also infringed, and continue to infringe, claims of the ‘492 patent by offering to commercially distribute, commercially distributing, making, and/or importing the Accused Products, which are used in practicing the process, or using the systems, of the patent, and constitute a material part of the invention. Defendants know the components in the Accused Products to be especially made or especially adapted for use in infringement of the patent, not a staple article, and not a commodity of commerce suitable for substantial noninfringing use. Accordingly, Defendants have been, and currently are, contributorily infringing the ’492 patent, in violation of 35 U.S.C. § 271(c).

15. The Accused Products satisfy all claim limitations of one or more claims of the ’492 Patent. For example the Accused Instrumentalities infringe claim 10 of the ’492 Patent. One, non-limiting, example of the Accused Instrumentalities’ infringement is presented below.

16. The Accused Instrumentalities include: “A system for altering the setpoint on a

thermostat for space conditioning of a structure comprising: at least one thermostat having at least a first temperature setpoint associated with a non-occupied structure, and at least a second temperature setpoint associated with the existence of occupants in said structure." For example, Defendants contend that "[w]hen Alarm.com sees that you're leaving (and that no one else is home), your thermostat will set back for automatic savings." https://www.alarm.com/blog/Geo-Services-Introduction. When an occupant arrives home the thermostat is turned back up. *Id.*

2: Save energy when you leave the house

An effective way to lower your energy bill is to set your thermostat back a few degrees when your house is empty. But when you're late for work or excited for a road trip, it's easy to forget.

A Geo-Services rule for your Alarm.com smart thermostat will take care of this forever. When Alarm.com sees that you're leaving (and that no one else is home), your thermostat will set back for automatic savings —until you ...

3: Come home to a warm welcome

On your way back home, Geo-Services works in reverse, ensuring that things are comfortable when you get there. As well as turning your thermostat back up , Geo-Services can turn on your smart lights as you arrive home. All you need to do now is open your Alarm.com app and let yourself in; no "doorway dash" required.

https://www.alarm.com/blog/Geo-Services-Introduction

With real-time information from all around your house, an Alarm.com Smart Thermostat sees more opportunities to save energy.

It can save energy automatically when no one's home, based on your security system's arming status. It can also use Geo-Services to save energy when you go to work, and make things comfortable when you're on your way home again.

On hot days, it knows the temperature outside and can turn itself down slightly to save you some money. It can even minimize waste when your kids leave doors and windows open.

https://www.alarm.com/blog/smart-thermostat-how-use

It cares about which room you're in

Using wireless temperature sensors, our Smart Thermostat delivers precision comfort to the rooms where you spend your time. Simply place these tiny devices around your home, and optimize your home's temperature for comfort in specific rooms. Create a multi-sensor schedule for precision comfort throughout the day, or average your overall temperature between different sensors.

It reacts to your location in real-time

Learning isn't everything. After all, your own schedule changes from day to day. Our smart thermostat reacts by using real-time data to adapt quickly to changes in your routine. One example is Geo-Services. If you're on your way home early, for example, our location automation feature will set the thermostat forward out of 'savings mode' to cool your house to the perfect temperature.

It saves as soon as you leave home

Our Smart Thermostat knows right away when you leave home, thanks to your security panel's status and Geo-Services. While standalone thermostats are still wondering why there's no motion in their room any more, ours is setting back to an energy-saving temperature before you're even in the car.

https://www.alarm.com/blog/meet-our-smart-thermostat

1: When you're on your way home

Thanks to the security system, our smart thermostat knows when you leave home, and saves energy when you do.

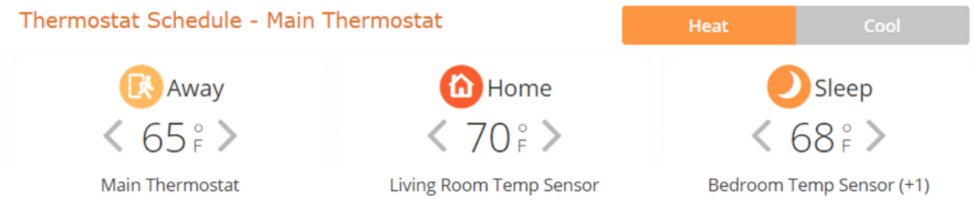
It also knows when you're on your way back, thanks to Geo-Services. This feature uses your smartphone's location to anticipate your arrival, and triggers your thermostat to make things comfortable when you get there.

https://www.alarm.com/blog/Smart-thermostat-should-know

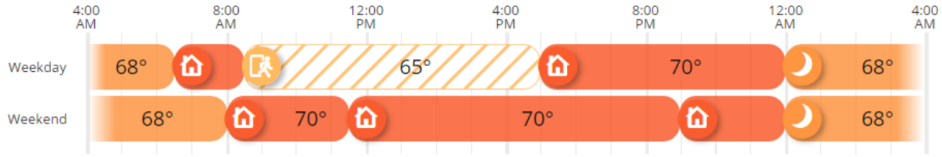
3: Create a room-based thermostat schedule

It's easy to create a schedule where your ideal temperature 'follows' you around the house throughout your day.

In this simple example, the user assigns a different sensor to each thermostat mode in their Alarm.com app. For energy savings in the daytime (Away), they use the main thermostat. For evenings (Home), they use the living room sensor. At night (Sleep) the bedroom sensor takes over.



After that, they use their slider as normal to control when each mode takes effect.



https://www.alarm.com/blog/remote-temperature-sensor

Security sensors make your thermostat smarter

As well as suspicious activity, your security sensors also register your own activity – for example, when doors typically open and close and where there is activity around the house..

With all this information our Smart Thermostat knows more about what's happening in your home – unlike standalone devices with 'one-room vision'.

It can learn your activity patterns and update them to offer savings schedules that truly fit around your lifestyle.

Your system tells your thermostat you're home (or on your way)

Your security system's status also feeds directly into our Smart Thermostat. When you arm your panel to 'away', it knows your home's empty, and sets back to save money. When you arrive home, it knows to make things comfortable again.

In fact, it even knows when you're on your way home, thanks to our Geo-Services feature. Using your smartphone location as a signal, Alarm.com knows when you're close to home and can trigger your thermostat to get the temperature just right for when you arrive.

This feature can also override your schedule, enabling your thermostat to adapt immediately when your routine changes, and then adjust back when it knows you're back on schedule.

https://www.alarm.com/blog/security-savings-smart-thermostat

It's completely integrated with your Smart Home

Our Smart Thermostat is the first thermostat built specifically for the Smart Home. It's integrated fully into the Alarm.com smartphone app, letting you control your temperature alongside your security panel, lights, locks, garage door and more. Behind the scenes, the Alarm.com platform – a cloud technology connecting millions of homes – enables intelligent savings, new feature updates and security-grade reliability.

https://www.alarm.com/blog/meet-our-smart-thermostat

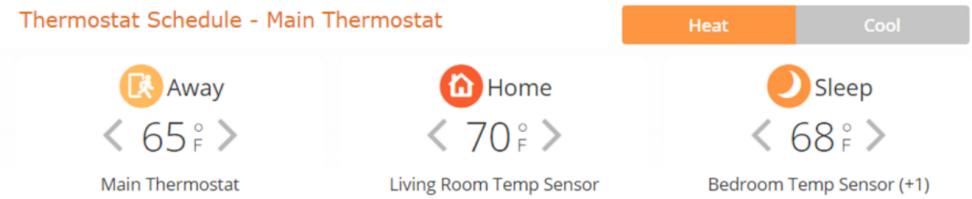
17. The Accused Instrumentalities include "one or more electronic devices having at least a graphic user interface comprising a display wherein said electronic devices receive input from one or more users and wherein use of said electronic devices comprises at least one of cursor movement, keystrokes or other user interface actions intended to alter a state of one or more of said electronic devices by one or more users wherein activity of one or more networked electronic devices indicates whether said thermostat should be changed from said first temperature setpoint to said second temperature setpoint." For example, the Accused Instrumentalities include graphical user interfaces and are further are designed to work the Alarm.com mobile application, which also includes a graphic user interface. These interfaces allow users to create comfort settings with home and away set points. Users can also enable or disable Geo-Services or other location based services. Users can also determine which room

sensors will control the home temperature at which times and set temperatures for home away and sleep.

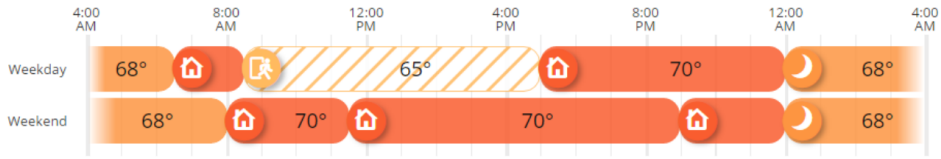
3: Create a room-based thermostat schedule

It's easy to create a schedule where your ideal temperature 'follows' you around the house throughout your day.

In this simple example, the user assigns a different sensor to each thermostat mode in their Alarm.com app. For energy savings in the daytime (Away), they use the main thermostat. For evenings (Home), they use the living room sensor. At night (Sleep) the bedroom sensor takes over.

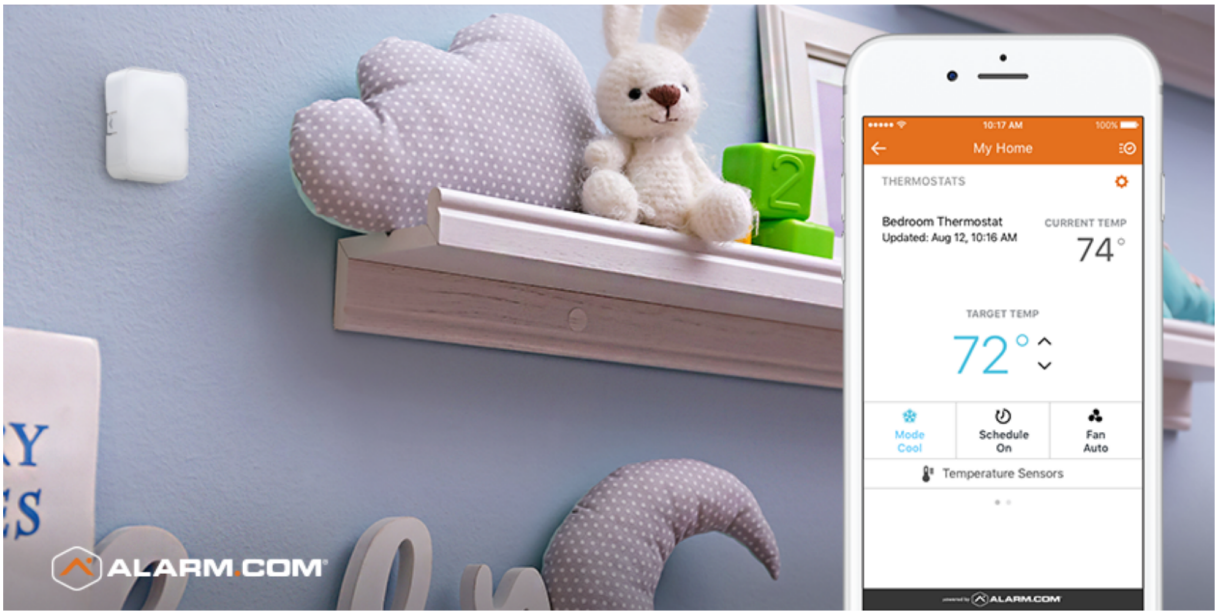


After that, they use their slider as normal to control when each mode takes effect.



https://www.alarm.com/blog/remote-temperature-sensor

2: Enjoy room-by-room precision comfort



While most smart thermostats are limited by a one-room view, our Smart Thermostat can read the temperature in different rooms of your home with small, wireless temperature sensors.

With this knowledge, it can heat or cool the house to deliver precision comfort to any single room that you choose. As well as tackling hot rooms, this lets you create custom comfort schedules around your family's routine. You can enjoy your morning coffee is a perfectly comfortable kitchen, ensure that your baby's room is cozy for naptime, and enjoy cool upstairs bedrooms at night.

3: Control things without lifting a finger

With an Amazon Echo or Google Home device connected to your system, your Alarm.com Smart Thermostat responds to your voice. You can "ask Alarm.com" to adjust to a precise temperature, or simply ask to turn the temperature up or down for a 2° change in either direction.

For extra convenience, you can include your thermostat in Alarm.com's customizable, multi-device Scene commands, which you can activate with Amazon Echo or your Alarm.com app.

https://www.alarm.com/blog/smart-thermostat-how-use

It's completely integrated with your Smart Home

Our Smart Thermostat is the first thermostat built specifically for the Smart Home. It's integrated fully into the Alarm.com smartphone app, letting you control your temperature alongside your security panel, lights, locks, garage door and more. Behind the scenes, the Alarm.com platform – a cloud technology connecting millions of homes – enables intelligent savings, new feature updates and security-grade reliability.

https://www.alarm.com/blog/meet-our-smart-thermostat

Your system tells your thermostat you're home (or on your way)

Your security system's status also feeds directly into our Smart Thermostat. When you arm your panel to 'away', it knows your home's empty, and sets back to save money. When you arrive home, it knows to make things comfortable again.

In fact, it even knows when you're on your way home, thanks to our Geo-Services feature. Using your smartphone location as a signal, Alarm.com knows when you're close to home and can trigger your thermostat to get the temperature just right for when you arrive.

This feature can also override your schedule, enabling your thermostat to adapt immediately when your routine changes, and then adjust back when it knows you're back on schedule.

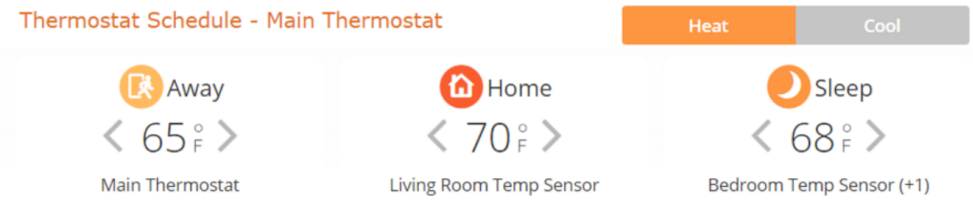
https://www.alarm.com/blog/security-savings-smart-thermostat

18. The Accused Instrumentalities include "wherein said electronic devices and said thermostat are connected to a network; an application comprising one or more computer processors in communication with said network, wherein said application determines whether said one or more electronic devices are in use and in response, whether said thermostat is set to said first temperature setpoint that indicates said structure is not occupied." For example, the thermostats, sensors, and mobile device are connected to wireless networks and use the settings and mobile application described above. The devices also respond to the Alarm.com cloud-based platform, which enables, among other things, the use of Geo-Services to toggle between home and away temperatures or take other actions based on occupancy information.

3: Create a room-based thermostat schedule

It's easy to create a schedule where your ideal temperature 'follows' you around the house throughout your day.

In this simple example, the user assigns a different sensor to each thermostat mode in their Alarm.com app. For energy savings in the daytime (Away), they use the main thermostat. For evenings (Home), they use the living room sensor. At night (Sleep) the bedroom sensor takes over.



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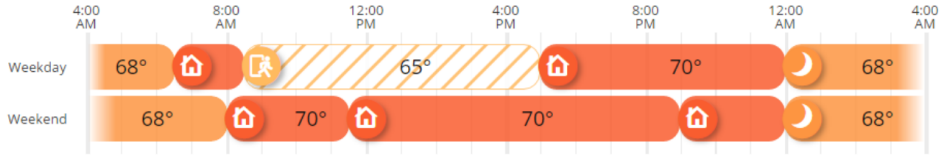

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This feature can also override your schedule, enabling your thermostat to adapt immediately when your routine changes, and then adjust back when it knows you're back on schedule.

https://www.alarm.com/blog/security-savings-smart-thermostat

19. The Accused Instrumentalities include "said application determining that said one or more users has previously indicated a preference that said user's input be obtained before automatically changing said first HVAC temperature setpoint to said second HVAC temperature setpoint indicating that said structure is deemed to be occupied; said application prompting said one or more users based on said determining that said one or more of said user's input should be obtained, wherein said application provides electronic notice to one or more of said users of said electronic devices that said thermostat is set for a non-occupied structure and whether to keep said first temperature setpoint or change to said second temperature setpoint; and wherein said application in response to said prompting, receives input from said one or more users to keep said first HVAC temperature setpoint; and wherein said thermostat is kept at said first temperature setpoint based upon said input from said one or more users." For example, the Accused Instrumentalities will store schedules set by a user with temperature set point information, scheduled Home, Away, or Sleep periods. Alarm.com's applications allow a user to create a virtual Geo-Services fence prompting a user to set rules including rules to override thermostat schedules based on the user's location. Geo-Services also provides notifications upon entering or leaving the virtual fence.

20. By making, using, offering for sale, selling and/or importing into the United States the Accused Products, Defendant has injured Plaintiff and is liable for infringement of the '492 Patent pursuant to 35 U.S.C. § 271.

21. As a result of Defendants' infringement of the '492 Patent, Plaintiff is entitled to monetary damages in an amount adequate to compensate for Defendants' infringement, but in no event less than a reasonable royalty for the use made of the invention by Defendants, together

with interest and costs as fixed by the Court.

22. Defendants' infringing activities have injured and will continue to injure Plaintiff, unless and until this Court enters an injunction prohibiting further infringement of the '492 Patent, and, specifically, enjoining further manufacture, use, sale, importation, and/or offers for sale that come within the scope of the patent claims.

COUNT II

INFRINGEMENT OF U.S. PATENT NO. 8,412,488

23. Plaintiff realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

24. Plaintiff is the owner and assignee of United States Patent No. 8,412,488 titled "System and method for using a network of thermostats as tool to verify peak demand reduction." The '488 patent was duly and legally issued by the United States Patent and Trademark Office on April 2, 2013. Plaintiff is the owner and assignee, possessing all substantial rights, to the '488 Patent. A true and correct copy of the '488 Patent is attached as Exhibit 2.

25. Defendants make, use, offer for sale, sell, and/or import into the United States certain products and services that directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the '488 Patent, and continue to do so. By way of illustrative example, these infringing products and services include, without limitation, Defendants' products and services, *e.g.*, ADC-T2000 and T3000 smart thermostats, the Alarm.com application and all versions and variations thereof since the issuance of the '488 Patent ("Accused Instrumentalities").

26. Defendants have had knowledge of the ’488 patent from a date no later than the date of filing of this complaint. Defendants have known how the Accused Products are made and has known, or has been willfully blind to the fact, that making, using, offering to sell, and selling the accused products within the United States, or importing the Accused Products into the United States, would constitute infringement.

27. Defendants have induced, and continue to induce, infringement of the ’488 patent by actively encouraging others (including distributors and end customers) to use, offer to sell, sell, and import the Accused Products. On information and belief, these acts include providing information and instructions on the use of the Accused Products; providing information, education and instructions supporting sales by distributors; providing the Accused Products to distributors; and indemnifying patent infringement within the United States.

28. Defendants have also infringed, and continue to infringe, claims of the ‘488 patent by offering to commercially distribute, commercially distributing, making, and/or importing the Accused Products, which are used in practicing the process, or using the systems, of the patent, and constitute a material part of the invention. Defendants know the components in the Accused Products to be especially made or especially adapted for use in infringement of the patent, not a staple article, and not a commodity of commerce suitable for substantial noninfringing use. Accordingly, Defendants have been, and currently are, contributorily infringing the ’488 patent, in violation of 35 U.S.C. § 271(c).

29. The Accused Products satisfy all claim limitations of one or more claims of the ’488 Patent. For example the Accused Instrumentalities infringe claim 1 of the ’488 Patent. One, non-limiting, example of the Accused Instrumentalities’ infringement is presented below.

30. The Accused Instrumentalities include “[a] system for monitoring the operational

status of an HVAC system comprising: at least one HVAC control system associated with a first structure that receives temperature measurements from at least a first structure conditioned by at least one HVAC system." For example, Accused Instrumentalities receive temperature measurements from inside the building that it is servicing through the Alarm.com smart thermostat and/or additional remote sensors.

31. The Accused Instrumentalities include "one or more processors that receive measurements of outside temperatures from at least one source other than said HVAC system." For example, the Accused Instrumentalities receive measurements of outside temperature from the internet.

Using wireless temperature sensors, our Smart Thermostat delivers precision comfort to the rooms where you spend your time. Simply place these tiny devices around your home, and optimize your home's temperature for comfort in specific rooms. Create a multi-sensor schedule for precision comfort throughout the day, or average your overall temperature between different sensors.

See https://www.alarm.com/blog/meet-our-smart-thermostat

Chances are that your thermostat doesn't live in the room where you spend most of your time. Even if it sits in your living room, it doesn't know the temperature in your kitchen or bedroom, which tend to be different.

The solution is a temperature sensor on the wall of each room where the temperature matters to you at some point during the day. Your bedroom and living room are strong candidates, but everyone's needs are different. If you're a new parent, for example, you'll want a sensor in the nursery.

See https://www.alarm.com/blog/remote-temperature-sensor

4: Or, use a whole-home average temperature

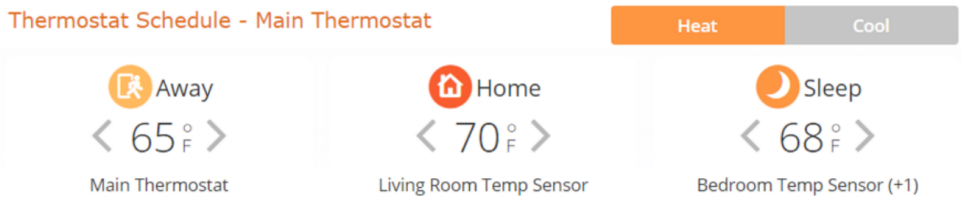
If your family don't tend to congregate in a single room, you can set your thermostat to target the average of every sensor's temperature. This enables you to heat your home based on the general temperature throughout the house, with warm and cool spots taken into account. It's a great way to make your home more comfortable overall.

Id.

3: Create a room-based thermostat schedule

It's easy to create a schedule where your ideal temperature 'follows' you around the house throughout your day.

In this simple example, the user assigns a different sensor to each thermostat mode in their Alarm.com app. For energy savings in the daytime (Away), they use the main thermostat. For evenings (Home), they use the living room sensor. At night (Sleep) the bedroom sensor takes over.



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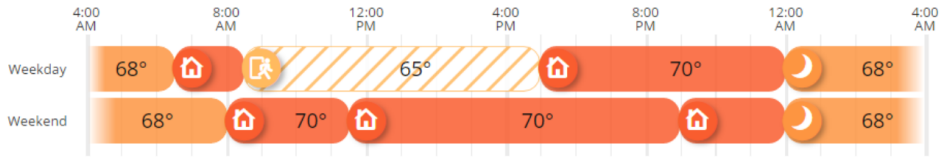
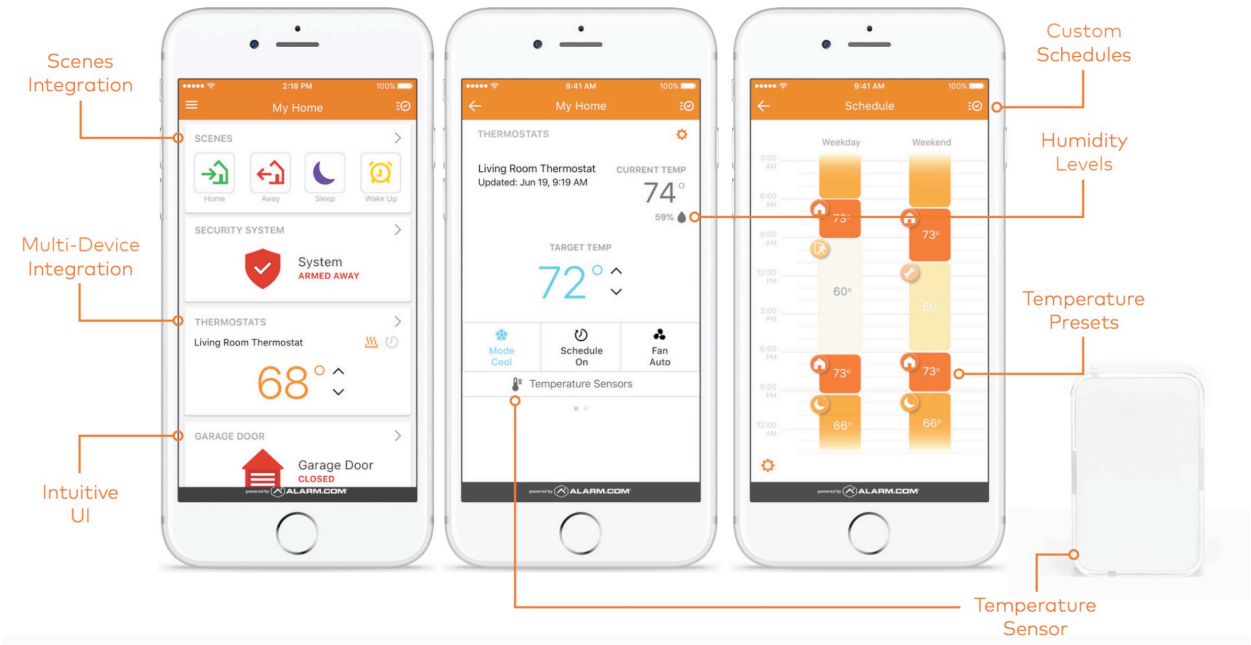
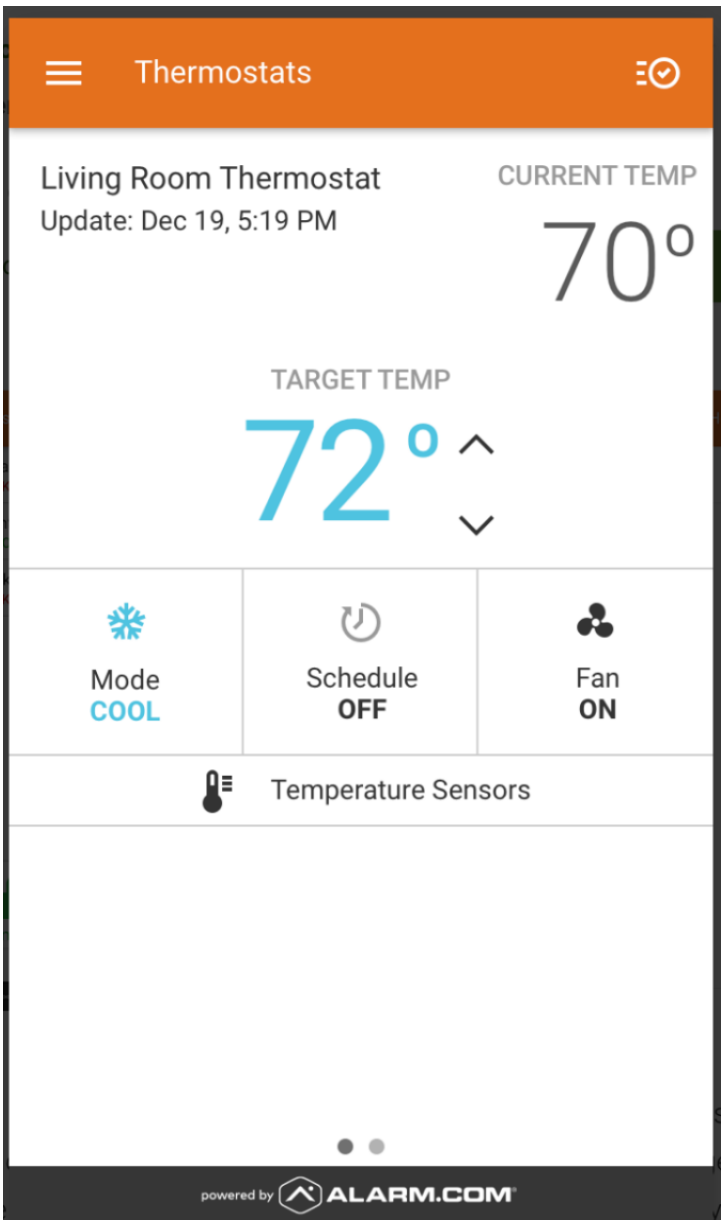


https://www.alarm.com/blog/remote-temperature-sensor



See Product Summary. Smart Thermostat ADC-T3000.



See https://play.google.com/store/apps/details?id=com.alarm.alarmmobile.android&hl=en_US

32. The Accused Instrumentalities include "wherein said one or more processors compares the inside temperature of said first structure and the outside temperature over time to derive an estimation for the rate of change in inside temperature of said first structure in response to outside temperature, and wherein said one or more processors compare an inside temperature recorded inside the first structure with said estimation for the rate of change in inside

temperature of said first structure to determine whether the first HVAC system is on or off." For example, the Accused Instrumentalities receive internal temperature information (such as readings from smart thermostats and remote sensors) and external temperature information (such as weather information). On information and belief, the Accused Instrumentalities calculate the expected rate of change will compare internal temperature and external temperature and, other factors, to calculate the rate of change of inside temperature, and use this calculation to determine when to turn the HVAC system on or off. For example, the Accused Instrumentalities detect open doors or windows or extreme temperatures and adjust the set point temperature for the HVAC accordingly. The Accused Instrumentalities also provide alerts if temperature increases or decreases too much.

It saves when you open a window

A big cause of wasted energy is running your AC with an outside door or window open – a problem that standalone thermostats can't address. Our thermostat knows if you're 'cooling the neighborhood' thanks to your door or window sensors, and will set back automatically to save energy until you close the door.

It even knows what's happening outside.

With access to real-time weather data, our Smart Thermostat can even adjust automatically on extremely hot or cold days to take an additional bite out of your energy bills. It's also compatible with 'demand response' programs from utility companies, making you eligible for reduced rates if your electric company offers them.

It's completely integrated with your Smart Home

Our Smart Thermostat is the first thermostat built specifically for the Smart Home. It's integrated fully into the Alarm.com smartphone app, letting you control your temperature alongside your security panel, lights, locks, garage door and more. Behind the scenes, the Alarm.com platform – a cloud technology connecting millions of homes – enables intelligent savings, new feature updates and security-grade reliability.

https://www.alarm.com/blog/meet-our-smart-thermostat

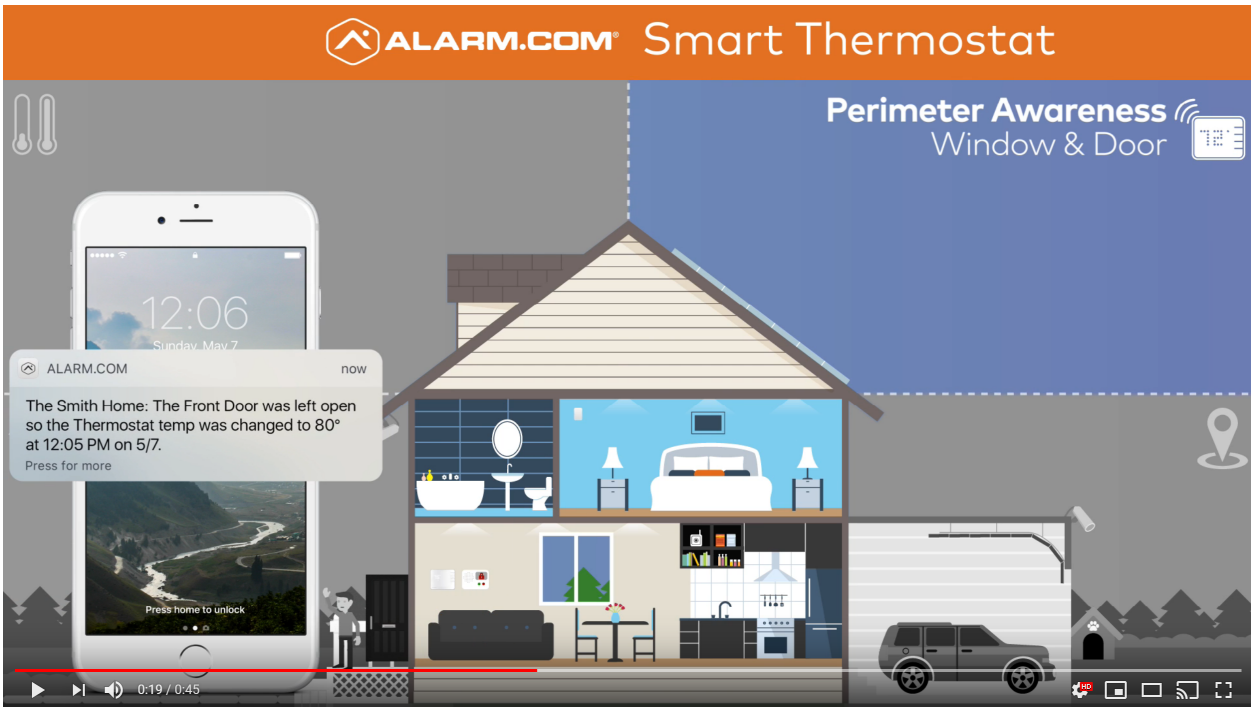
Your system tells your thermostat you're home (or on your way)

Your security system's status also feeds directly into our Smart Thermostat. When you arm your panel to 'away', it knows your home's empty, and sets back to save money. When you arrive home, it knows to make things comfortable again.

In fact, it even knows when you're on your way home, thanks to our Geo-Services feature. Using your smartphone location as a signal, Alarm.com knows when you're close to home and can trigger your thermostat to get the temperature just right for when you arrive.

This feature can also override your schedule, enabling your thermostat to adapt immediately when your routine changes, and then adjust back when it knows you're back on schedule.

https://www.alarm.com/blog/security-savings-smart-thermostat



https://www.youtube.com/watch?v=f8oLVKP8AJ4

33. By making, using, offering for sale, selling and/or importing into the United States the Accused Products, Defendant has injured Plaintiff and is liable for infringement of the '488 Patent pursuant to 35 U.S.C. § 271.

34. As a result of Defendants' infringement of the '488 Patent, Plaintiff is entitled to monetary damages in an amount adequate to compensate for Defendants' infringement, but in no event less than a reasonable royalty for the use made of the invention by Defendants, together with interest and costs as fixed by the Court.

35. Defendants' infringing activities have injured and will continue to injure Plaintiff, unless and until this Court enters an injunction prohibiting further infringement of the '488 Patent, and, specifically, enjoining further manufacture, use, sale, importation, and/or offers for sale that come within the scope of the patent claims.

COUNT III

INFRINGEMENT OF U.S. PATENT NO. 8,738,327

36. Plaintiff realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

37. Plaintiff is the owner and assignee of United States Patent No. 8,738,327 titled "System and method for using a network of thermostats as tool to verify peak demand reduction." The '327 patent was duly and legally issued by the United States Patent and Trademark Office on May 27, 2014. Plaintiff is the owner and assignee, possessing all substantial rights, to the '327 Patent. A true and correct copy of the '327 Patent is attached as Exhibit 3.

38. Defendants make, use, offer for sale, sell, and/or import into the United States certain products and services that directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the '327 Patent, and continue to do so. By way of illustrative example, these infringing products and services include, without limitation, Defendants' products and services, *e.g.*, such as the ADC-T2000 and T3000 smart thermostats, the Alarm.com application and all versions and variations thereof since the issuance of the '327 Patent ("Accused Instrumentalities").

39. Defendants have had knowledge of the '327 patent from a date no later than the date of filing of this complaint. Defendants have known how the Accused Products are made and have known, or have been willfully blind to the fact, that making, using, offering to sell, and selling the accused products within the United States, or importing the Accused Products into the United States, would constitute infringement.

40. Defendants have induced, and continue to induce, infringement of the ’327 patent by actively encouraging others (including distributors and end customers) to use, offer to sell, sell, and import the Accused Products. On information and belief, these acts include providing information and instructions on the use of the Accused Products; providing information, education and instructions supporting sales by distributors; providing the Accused Products to distributors; and indemnifying patent infringement within the United States.

41. Defendants have also infringed, and continue to infringe, claims of the ‘327 patent by offering to commercially distribute, commercially distributing, making, and/or importing the Accused Products, which are used in practicing the process, or using the systems, of the patent, and constitute a material part of the invention. Defendants know the components in the Accused Products to be especially made or especially adapted for use in infringement of the patent, not a staple article, and not a commodity of commerce suitable for substantial noninfringing use. Accordingly, Defendants have been, and currently are, contributorily infringing the ’327 patent, in violation of 35 U.S.C. § 271(c).

42. The Accused Products satisfy all claim limitations of one or more claims of the ’327 Patent. One, non-limiting, example of the Accused Instrumentalities’ infringement is presented below. For example, the Accused Instrumentalities include “[a] system for controlling the operational status of an HVAC system comprising: at least one thermostat associated with a structure that receives temperature measurements from inside the structure, the structure conditioned by at least one HVAC system, the thermostat having at least a first setting stored therein.” For example, the Accused Instrumentalities have a thermostat that receives temperature settings from inside the structure which can store settings, including temperature set points, schedule for heating and cooling, and Geo-Services rules.

43. For example, the Accused Instrumentalities include "one or more servers located remotely from the structure, the one or more servers configured to receive measurements of outside temperatures from at least one source other than the HVAC system." For example, the Accused Instrumentalities receive measurements of outside temperature from the internet through Alarm.com's servers, and communicate with Alarm.com's servers through the internet, *e.g.*, to allow Alarm.com's cloud service to determine whether the temperature set point for the HVAC system should be adjusted and, if so, the magnitude and direction of the adjustment.

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Our Smart Thermostat is the first thermostat built specifically for the Smart Home. It's integrated fully into the Alarm.com smartphone app, letting you control your temperature alongside your security panel, lights, locks, garage door and more. Behind the scenes, the Alarm.com platform – a cloud technology connecting millions of homes – enables intelligent savings, new feature updates and security-grade reliability.

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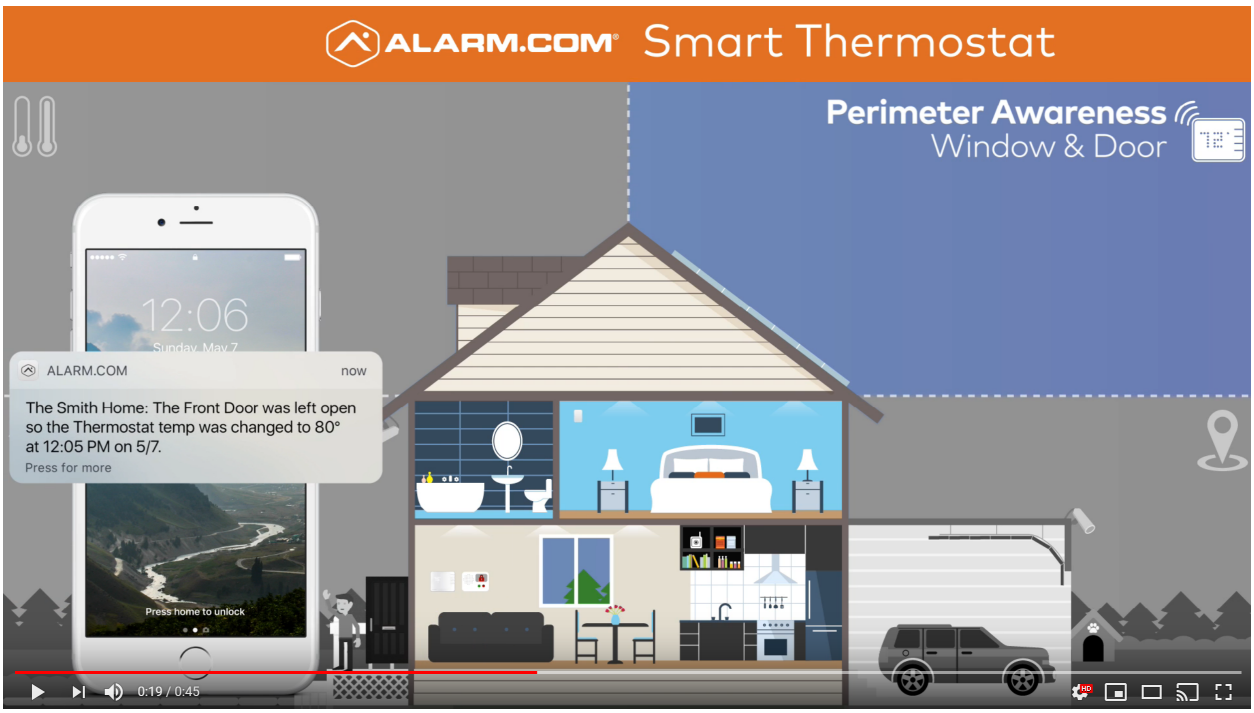

https://www.youtube.com/watch?v=f8oLVKP8AJ4

44. For example, Accused Instrumentalities include "the one or more servers are further configured to communicate with the thermostat via a network, wherein the one or more

servers receive inside temperatures from the thermostat and compares the inside temperatures of the structure and the outside temperatures over time to derive an estimation for the rate of change in inside temperature of the structure in response to outside temperature." On information and belief, the Accused Instrumentalities compare internal temperature and external temperature and, other factors, to calculate the rate of change of inside temperature. For example, the Accused Instrumentalities detect open doors or windows or extreme temperatures and adjust the set point temperature for the HVAC accordingly. The Accused Instrumentalities also provide alerts if temperature increases or decreases too much. On information and belief, Alarm.com's cloud service receives internal and external temperature information to determine, e.g., whether the temperature set point for the HVAC system should be adjusted and, if so, the magnitude and direction of the adjustment, based on the anticipated rate of change.

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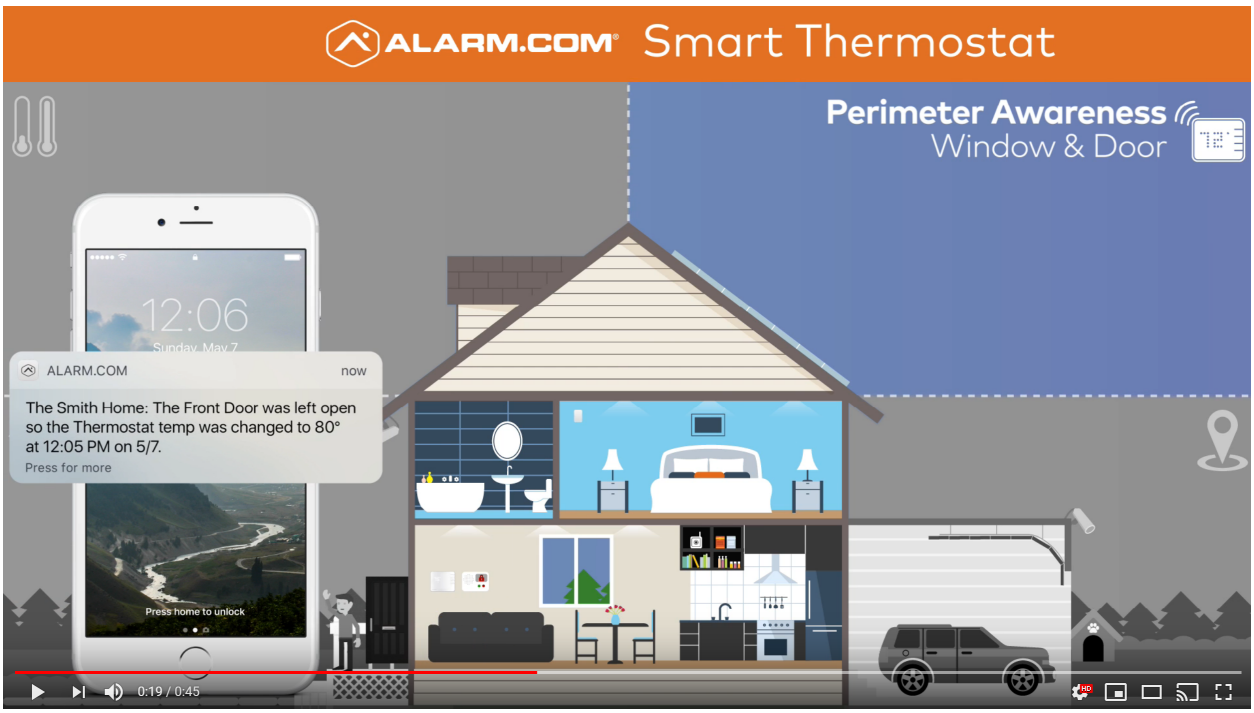


https://www.youtube.com/watch?v=f8oLVKP8AJ4

45. The Accused Instrumentalities further include "the one or more servers are further configured to receive a demand reduction request and determine whether the structure is associated with demand rejection request, and based on the determination that the structure is associated with the demand reduction request, the one or more servers are further configured to send a signal to the thermostat to change the setting to a second setting to reduce electricity demand by the HVAC system." For example, using the mobile application users of the Accused Instrumentalities can instruct the Accused Instrumentalities to reduce the amount of usage of the devices in a variety of ways by implementing different temperature set points, selecting cool mode, setting a temperature schedule, locking the thermostat, overriding the existing schedule, or implementing a Geo-Services rule. The system is also configured to send a signal to the thermostat to reduce electricity demand when a window or door is open or when whether is extreme. On information and belief, these signals are sent from the Alarm.com cloud service.

46. By making, using, offering for sale, selling and/or importing into the United States the Accused Products, Defendants have injured Plaintiff and are liable for infringement of the '327 Patent pursuant to 35 U.S.C. § 271.

47. As a result of Defendants' infringement of the '327 Patent, Plaintiff is entitled to monetary damages in an amount adequate to compensate for Defendants' infringement, but in no event less than a reasonable royalty for the use made of the invention by Defendant, together with interest and costs as fixed by the Court.

48. Defendants' infringing activities have injured and will continue to injure Plaintiff, unless and until this Court enters an injunction prohibiting further infringement of the '327 Patent, and, specifically, enjoining further manufacture, use, sale, importation, and/or offers for sale that come within the scope of the patent claims.

COUNT IV

INFRINGEMENT OF U.S. PATENT NO. 10,534,382

49. Plaintiff realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

50. Plaintiff is the owner and assignee of United States Patent No. 10,534,382 titled "System and method for using a wireless device as a sensor for an energy management system." The '382 patent was duly and legally issued by the United States Patent and Trademark Office on January 14, 2020. Plaintiff is the owner and assignee, possessing all substantial rights, to the '382 Patent. A true and correct copy of the '382 Patent is attached as Exhibit 4.

51. Defendants make, use, offer for sale, sell, and/or import into the United States certain products and services that directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the '382 Patent, and continue to do so. By way of illustrative example, these infringing products and services include, without limitation, Defendants' products and services, *e.g.*, the ADC-T2000 and T3000 smart thermostats, the Alarm.com application and all versions and variations thereof since the issuance of the '382 Patent ("Accused Instrumentalities").

52. Defendants have had knowledge of the '382 patent from a date no later than the date of filing of this complaint. Defendants have known how the Accused Products are made and have known, or have been willfully blind to the fact, that making, using, offering to sell, and selling the accused products within the United States, or importing the Accused Products into the United States, would constitute infringement.

53. Defendants have induced, and continue to induce, infringement of the '382 patent by actively encouraging others (including distributors and end customers) to use, offer to sell,

sell, and import the Accused Products. On information and belief, these acts include providing information and instructions on the use of the Accused Products; providing information, education and instructions supporting sales by distributors; providing the Accused Products to distributors; and indemnifying patent infringement within the United States.

54. Defendants have also infringed, and continue to infringe, claims of the '382 patent by offering to commercially distribute, commercially distributing, making, and/or importing the Accused Products, which are used in practicing the process, or using the systems, of the patent, and constitute a material part of the invention. Defendants know the components in the Accused Products to be especially made or especially adapted for use in infringement of the patent, not a staple article, and not a commodity of commerce suitable for substantial noninfringing use. Accordingly, Defendants have been, and currently are, contributorily infringing the '382 patent, in violation of 35 U.S.C. § 271(c).

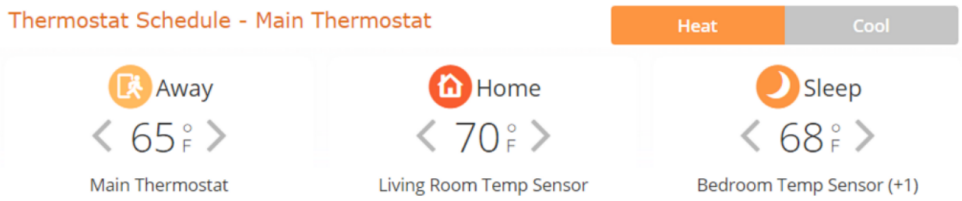
55. The Accused Products satisfy all claim limitations of one or more claims of the '327 Patent. One, non-limiting, example of the Accused Instrumentalities' infringement is presented below.

56. The Accused Instrumentalities include: "[a] system for controlling an HVAC system at a user's building, the system comprising: a memory; and one or more processors with circuitry and code designed to execute instructions." For example, the Accused Instrumentalities includes memory, processors and circuity and code, to allow a user to set a schedule of heating and cooling.

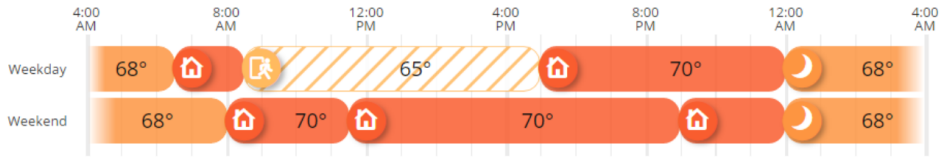
3: Create a room-based thermostat schedule

It's easy to create a schedule where your ideal temperature 'follows' you around the house throughout your day.

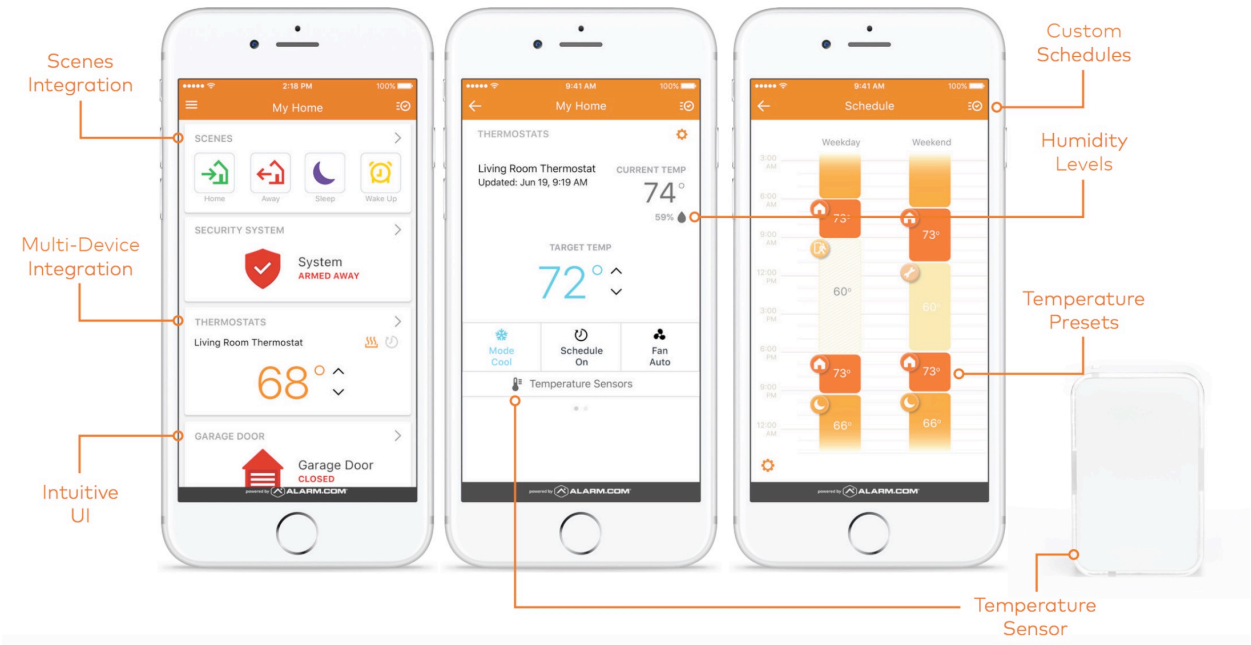
In this simple example, the user assigns a different sensor to each thermostat mode in their Alarm.com app. For energy savings in the daytime (Away), they use the main thermostat. For evenings (Home), they use the living room sensor. At night (Sleep) the bedroom sensor takes over.



After that, they use their slider as normal to control when each mode takes effect.

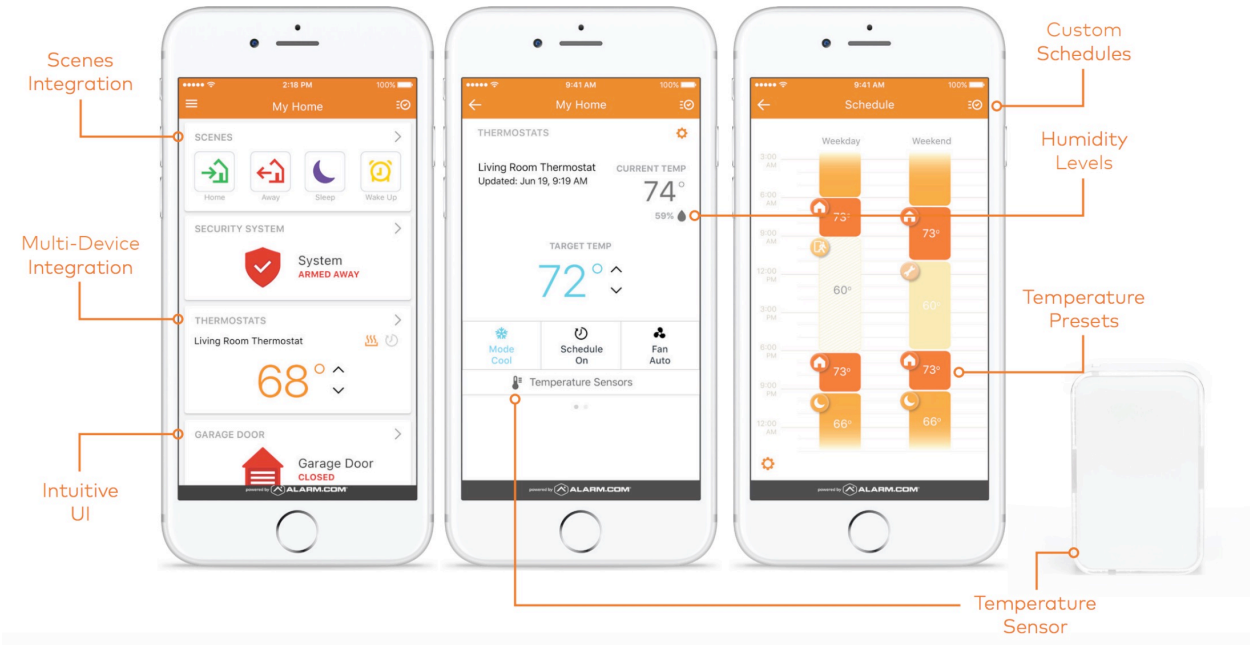


https://www.alarm.com/blog/remote-temperature-sensor



See Product Summary. Smart Thermostat ADC-T3000.

57. The Accused Instrumentalities include "the one or more processors with circuitry and code designed to execute instructions to receive a first data from at least one sensor, wherein the first data from the at least one sensor includes a measurement of at least one characteristic of the building." For example, the Accused Instrumentalities can determine whether or not the user is at home, activity, temperature, and humidity. The Accused Instrumentalities integrate with remote temperature sensors and the Alarm.com suite of sensors. The Accused Instrumentalities provide this data to a user's mobile devices running the Alarm.com application as well as the Alarm.com cloud-based service.



See Product Summary. Smart Thermostat ADC-T3000.

Using wireless temperature sensors, our Smart Thermostat delivers precision comfort to the rooms where you spend your time. Simply place these tiny devices around your home, and optimize your home's temperature for comfort in specific rooms. Create a multi-sensor schedule for precision comfort throughout the day, or average your overall temperature between different sensors.

See https://www.alarm.com/blog/meet-our-smart-thermostat

Chances are that your thermostat doesn't live in the room where you spend most of your time. Even if it sits in your living room, it doesn't know the temperature in your kitchen or bedroom, which tend to be different.

The solution is a temperature sensor on the wall of each room where the temperature matters to you at some point during the day. Your bedroom and living room are strong candidates, but everyone's needs are different. If you're a new parent, for example, you'll want a sensor in the nursery.

See https://www.alarm.com/blog/remote-temperature-sensor

4: Or, use a whole-home average temperature

If your family don't tend to congregate in a single room, you can set your thermostat to target the average of every sensor's temperature. This enables you to heat your home based on the general temperature throughout the house, with warm and cool spots taken into account. It's a great way to make your home more comfortable overall.

Id.

58. The Accused Instrumentalities include "the one or more processors with circuitry and code designed to execute instructions to receive a second data from a network connection, wherein the second data from the network connection is collected from a source external to the building, wherein the second data from the network connection is received via the Internet." For example, the Accused Instrumentalities receive information concerning local weather, which is received from the internet.

It saves when you open a window

A big cause of wasted energy is running your AC with an outside door or window open – a problem that standalone thermostats can't address. Our thermostat knows if you're 'cooling the neighborhood' thanks to your door or window sensors, and will set back automatically to save energy until you close the door.

It even knows what's happening outside.

With access to real-time weather data, our Smart Thermostat can even adjust automatically on extremely hot or cold days to take an additional bite out of your energy bills. It's also compatible with 'demand response' programs from utility companies, making you eligible for reduced rates if your electric company offers them.

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https://www.alarm.com/blog/meet-our-smart-thermostat

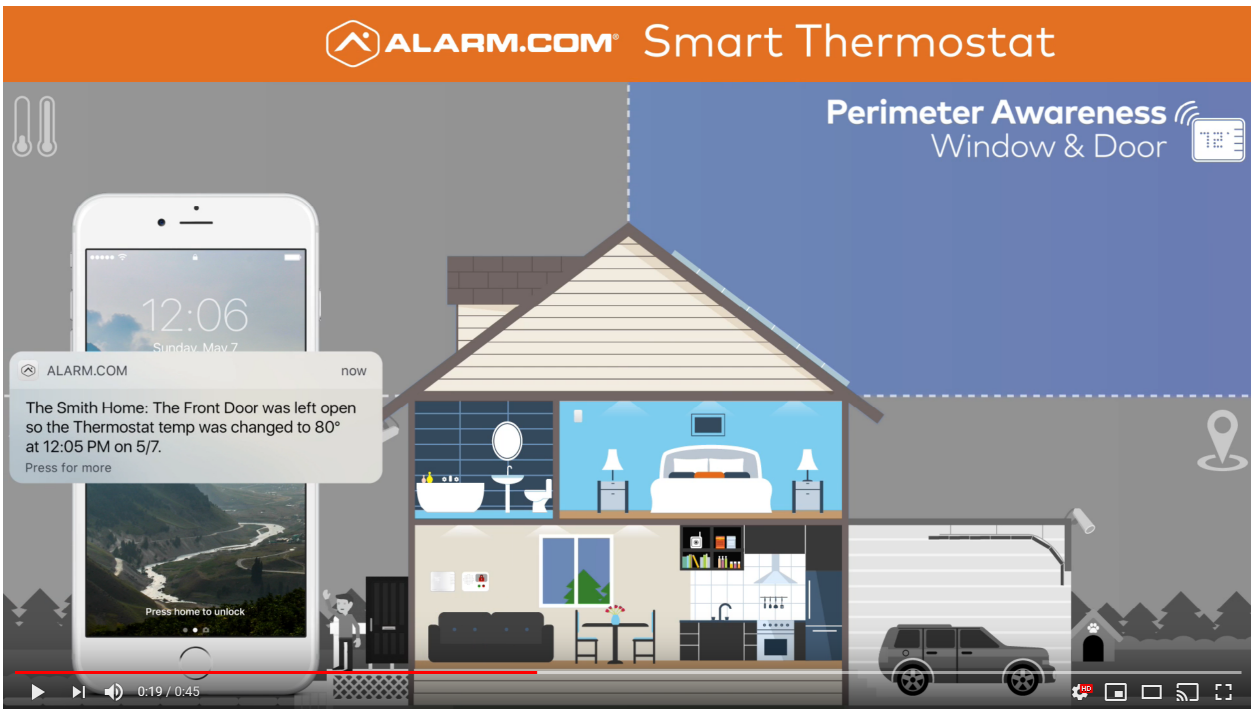
Your system tells your thermostat you're home (or on your way)

Your security system's status also feeds directly into our Smart Thermostat. When you arm your panel to 'away', it knows your home's empty, and sets back to save money. When you arrive home, it knows to make things comfortable again.

In fact, it even knows when you're on your way home, thanks to our Geo-Services feature. Using your smartphone location as a signal, Alarm.com knows when you're close to home and can trigger your thermostat to get the temperature just right for when you arrive.

This feature can also override your schedule, enabling your thermostat to adapt immediately when your routine changes, and then adjust back when it knows you're back on schedule.

https://www.alarm.com/blog/security-savings-smart-thermostat



https://www.youtube.com/watch?v=f8oLVKP8AJ4

59. The Accused Instrumentalities include "the one or more processors with circuitry and code designed to execute instructions to receive a first temperature setpoint for the building

corresponding to a desired temperature setting when the building is occupied, and a second temperature setpoint for the building corresponding to a desired temperature setting when the building is unoccupied." For example, as described above, the Accused Instrumentalities will adjust the temperature based on whether the user is within a virtual fence using the Geo-Services feature. The user may also specify home and away temperature settings.

2: Save energy when you leave the house

An effective way to lower your energy bill is to set your thermostat back a few degrees when your house is empty. But when you're late for work or excited for a road trip, it's easy to forget.

A Geo-Services rule for your Alarm.com smart thermostat will take care of this forever. When Alarm.com sees that you're leaving (and that no one else is home), your thermostat will set back for automatic savings—until you ...

3: Come home to a warm welcome

On your way back home, Geo-Services works in reverse, ensuring that things are comfortable when you get there. As well as turning your thermostat back up , Geo-Services can turn on your smart lights as you arrive home. All you need to do now is open your Alarm.com app and let yourself in; no "doorway dash" required.

https://www.alarm.com/blog/Geo-Services-Introduction

With real-time information from all around your house, an Alarm.com Smart Thermostat sees more opportunities to save energy.

It can save energy automatically when no one's home, based on your security system's arming status. It can also use Geo-Services to save energy when you go to work, and make things comfortable when you're on your way home again.

On hot days, it knows the temperature outside and can turn itself down slightly to save you some money. It can even minimize waste when your kids leave doors and windows open.

https://www.alarm.com/blog/smart-thermostat-how-use

It cares about which room you're in

Using wireless temperature sensors, our Smart Thermostat delivers precision comfort to the rooms where you spend your time. Simply place these tiny devices around your home, and optimize your home's temperature for comfort in specific rooms. Create a multi-sensor schedule for precision comfort throughout the day, or average your overall temperature between different sensors.

It reacts to your location in real-time

Learning isn't everything. After all, your own schedule changes from day to day. Our smart thermostat reacts by using real-time data to adapt quickly to changes in your routine. One example is Geo-Services. If you're on your way home early, for example, our location automation feature will set the thermostat forward out of 'savings mode' to cool your house to the perfect temperature.

It saves as soon as you leave home

Our Smart Thermostat knows right away when you leave home, thanks to your security panel's status and Geo-Services. While standalone thermostats are still wondering why there's no motion in their room any more, ours is setting back to an energy-saving temperature before you're even in the car.

https://www.alarm.com/blog/meet-our-smart-thermostat

1: When you're on your way home

Thanks to the security system, our smart thermostat knows when you leave home, and saves energy when you do.

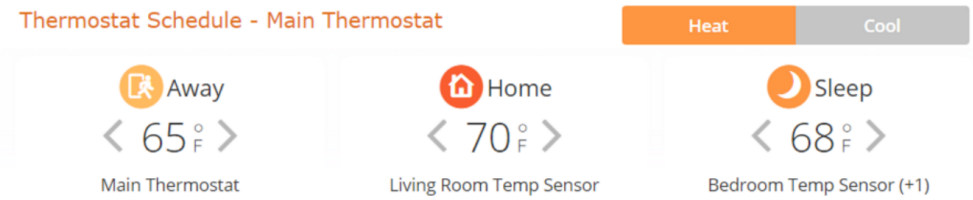
It also knows when you're on your way back, thanks to Geo-Services. This feature uses your smartphone's location to anticipate your arrival, and triggers your thermostat to make things comfortable when you get there.

https://www.alarm.com/blog/Smart-thermostat-should-know

3: Create a room-based thermostat schedule

It's easy to create a schedule where your ideal temperature 'follows' you around the house throughout your day.

In this simple example, the user assigns a different sensor to each thermostat mode in their Alarm.com app. For energy savings in the daytime (Away), they use the main thermostat. For evenings (Home), they use the living room sensor. At night (Sleep) the bedroom sensor takes over.



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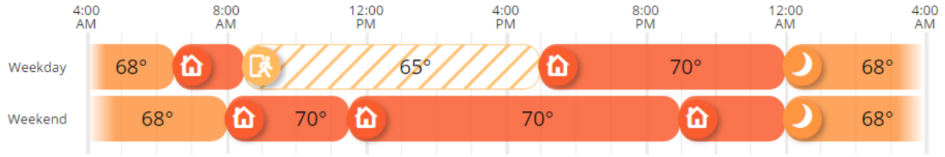

https://www.alarm.com/blog/remote-temperature-sensor

Security sensors make your thermostat smarter

As well as suspicious activity, your security sensors also register your own activity – for example, when doors typically open and close and where there is activity around the house..

With all this information our Smart Thermostat knows more about what's happening in your home – unlike standalone devices with 'one-room vision'.

It can learn your activity patterns and update them to offer savings schedules that truly fit around your lifestyle.

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Your security system's status also feeds directly into our Smart Thermostat. When you arm your panel to 'away', it knows your home's empty, and sets back to save money. When you arrive home, it knows to make things comfortable again.

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https://www.alarm.com/blog/meet-our-smart-thermostat

60. The Accused Instrumentalities include "the one or more processors with circuitry and code designed to execute instructions to receive commands through the Internet by way of a remote interface on a mobile, wireless device running software application code; wherein the interface is configured to allow the user to adjust temperature setpoints for the HVAC system; the one or more processors with circuitry and code designed to execute instructions to send user-specific data through the Internet, wherein user-specific information about the building and HVAC system is generated based at least in part on the user-specific data, wherein the user-specific information is configured to be presented on a user interface on a mobile, wireless device running software application code via the Internet." For example, as explained above, using the Alarm.com mobile application provides a graphical user interface allowing the user to change the temperature set points, temperature schedule, respond to alerts, and set Geo-Service

rules. The Alarm.com mobile application and smart thermostats communicate through the internet and Alarm.com's cloud-based service.

61. The Accused Instrumentalities include "the one or more processors with circuitry and code designed to execute instructions to determine whether the building is occupied or unoccupied, and based on that determination, to control the HVAC system to provide heating or cooling to the building at an operational temperature." For example, as explained above, the Accused Instrumentalities will provide heating or cooling based on whether a building is occupied or unoccupied as specified, for example, in user home and away settings and by Geo-Service rules.

62. The Accused Instrumentalities include "wherein the one or more processors comprises a first processor with circuitry and code designed to execute instructions, which is located remotely from the memory and is not electrically connected to the memory; the first processor with circuitry and code designed to execute instructions to communicate with the memory." For example, using a mobile device with the Alarm.com mobile application, which is not connected to the memory on the Accused Instrumentalities, a user can change the setpoints, home or away settings, create schedules, enable or disable Geo-Service rules, and move in and out of virtual Geo-Service fences. In addition the Accused Instrumentalities include monitors that are remote from the memory and not connected to the memory that communicate with the memory regarding temperature, occupancy, humidity, settings, and other data.

63. The Accused Instrumentalities include "wherein the memory is configured to store historical values of the first data and second data." For example, on information and belief, the Accused Instrumentalities store historical information about user location, whether the user is within a virtual Geo-Service fence, activity and occupation of rooms in the home, humidity,

internal and external temperature, weather information, among other things. This information is communicated to the Alarm.com cloud-based service and accessible to users through the Alarm.com application.

64. By making, using, offering for sale, selling and/or importing into the United States the Accused Products, Defendants have injured Plaintiff and are liable for infringement of the '382 Patent pursuant to 35 U.S.C. § 271.

65. As a result of Defendants' infringement of the '382 Patent, Plaintiff is entitled to monetary damages in an amount adequate to compensate for Defendants' infringement, but in no event less than a reasonable royalty for the use made of the invention by Defendants, together with interest and costs as fixed by the Court.

66. Defendants' infringing activities have injured and will continue to injure Plaintiff, unless and until this Court enters an injunction prohibiting further infringement of the '382 Patent, and, specifically, enjoining further manufacture, use, sale, importation, and/or offers for sale that come within the scope of the patent claims.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter:

a. A judgment in favor of Plaintiff that Defendants have infringed, either literally and/or under the doctrine of equivalents, the '492 Patent, the '488 Patent, the '327 Patent, and the '382 Patent;

b. A permanent injunction prohibiting Defendants from further acts of infringement of the '492 Patent, the '488 Patent, the '327 Patent, and the '382 Patent;

c. A judgment and order requiring Defendants to pay Plaintiff its damages, enhanced damages, costs, expenses, and pre-judgment and post-judgment interest for Defendants'

infringement of the '492 Patent, the '488 Patent, the '327 Patent, and the '382 Patent;

d. A judgment and order requiring Defendants to provide accountings and to pay supplemental damages to Plaintiff, including without limitation, pre-judgment and post-judgment interest;

e. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiff its reasonable attorneys' fees against Defendants; and

f. Any and all other relief as the Court may deem appropriate and just under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Dated: January 31, 2020

Respectfully submitted,

/s/ Reza Mirzaie

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