

Ryan S. Mauck, OSB No. 194153
MAUCK LAW
2900 NW Clearwater Dr, Ste 200
Bend, Oregon 97703
Tel: 541-203-6794
rmauck@maucklaw.com

Reza Mirzaie, CA State Bar No. 246953 (*pro hac vice* to be filed)
RUSS AUGUST & KABAT
12424 Wilshire Boulevard 12th Floor
Los Angeles, California 90025
Tel: 310-826-7474
Fax: 310-826-6991
rak_ecofactor@raklaw.com

Attorneys for Plaintiff EcoFactor, Inc.

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

ECOFACOR, INC.,
Plaintiff,
v.

POINTCENTRAL, LLC, ALARM.COM
INCORPORATED, and ALARM.COM
HOLDINGS, INC.,

Defendants.

Case No.:
**COMPLAINT FOR PATENT
INFRINGEMENT**
DEMAND FOR JURY TRIAL

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 PointCentral, LLC, Alarm.com Incorporated, and Alarm.com Holdings, Inc. (collectively, “Defendants”):

INTRODUCTION

1. Pursuant to L.R. 10-4(b), this complaint arises from Defendants’ unlawful infringement of the following United States patents owned by EcoFactor, Inc.: U.S. Patent No. 8,131,497 issued by the United States Patent and Trademark Office on March 6, 2012 (“497 Patent”), U.S. Patent No. 8,423,322 issued by the United States Patent and Trademark Office on April 16, 2013 (“322 Patent”), U.S. Patent No. 8,412,488 issued by the United States Patent and Trademark Office on April 2, 2013 (“488 Patent”), U.S. Patent No. 8,738,327 issued by the United States Patent and Trademark Office on May 27, 2014 (“327 Patent”), and U.S. Patent No. 10,534,382 issued by the United States Patent and Trademark Office on January 14, 2020 (“382 Patent”) (collectively, the “Asserted Patents”). EcoFactor owns all right, title, and interest in each of the Asserted Patents.

2. EcoFactor is a privately held company, having its principal place of business at 441 California Avenue, Number 2, Palo Alto, CA 94301. 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 transformed how homes use energy by applying advanced analytics to connected devices in the home. EcoFactor developed a suite of software known as the “EcoFactor Platform” that incorporates EcoFactor’s patented data analytics and machine learning algorithms, as well as EcoFactor’s award-winning smart HVAC control technologies. The EcoFactor Platform is software that runs on servers, including cloud servers, in the United States, and provides service to customers in the United States. The source code of the EcoFactor Platform, including for example the platform, quant, and mobile application source code, that comprises the EcoFactor Platform was designed by, created by, and is continuously maintained and improved by EcoFactor employees working in the United States. The EcoFactor 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. The EcoFactor Platform includes the software that practices EcoFactor’s patents on these features. For example, the EcoFactor Platform includes EcoFactor’s patented techniques for monitoring the health and performance of HVAC systems over time, smart thermostat scheduling to improve energy savings and optimize comfort for occupants, and thermodynamic modeling of the user’s home and HVAC system to enable dynamic pre-cooling and pre-heating to further improve comfort, save energy, or both, by creating comfortable schedules that also shift energy usage out of periods of peak energy demand.

4. The patented innovations at issue in this action were invented by EcoFactor engineers and researchers. EcoFactor has played a significant role in the development and advancement of such improvements to energy management technology—and the domestic market for them. EcoFactor has expended tens of millions of dollars of research and development and

technical services and support in the United States. In recent years, an explosion of imported products that infringe EcoFactor's innovative Asserted Patents has significantly eroded EcoFactor's market standing. This infringement action is about several patented improvements to smart thermostat systems, smart HVAC systems, and smart HVAC control systems—which took years of research and millions of dollars in U.S. investments to develop, and which are infringed by Defendants' accused products.

PARTIES

5. Plaintiff EcoFactor is a privately held company, having its principal place of business at 441 California Avenue, Number 2, Palo Alto, CA 94301. EcoFactor was founded in 2006 and is headquartered in Palo Alto, California. EcoFactor is the sole owner of all right, title, and interest in each of the Asserted Patents.

6. 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. PointCentral, LLC is a wholly owned subsidiary of Alarm.com Incorporated that offers smart home solutions and has facilities at 220 NW 8th Ave, Portland, Oregon 97209. PointCentral, LLC may be served with process through its registered agent, C T Corporation System, at 780 Commercial Street SE, Suite 100, Salem, OR 97301. PointCentral, LLC is registered to do business in the State of Oregon and has been since at least 2016.

JURISDICTION AND VENUE

7. 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).

8. 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, have 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.

9. 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. Defendants have at least one regular and established place of business in the District, including PointCentral's regular and established place of business at 220 NW 8th Ave, Portland, Oregon 97209.

THE TECHNOLOGY AND PRODUCTS AT ISSUE

10. The products accused of infringing one or more of the Asserted Patents are smart thermostat systems, smart HVAC systems, smart HVAC control systems, and all components (including accessories) thereof offered for sale by Defendants.

11. The Accused Products include thermostat systems that connect to and control an HVAC system, they include smart HVAC systems, and they include components of such systems such as, for example, hubs, panels, and remote sensors. These thermostat devices communicate over a network with other devices and systems offered by Defendants. The Accused Products connect to the network managed by Defendants via the Internet. For example, the Accused Products connect to Defendants' networked servers and data centers, online interfaces, and related accessories.

12. When connected as designed, the Accused Products form a smart thermostat system, smart HVAC system, and/or smart HVAC control system. Defendants' smart thermostat systems are "smart" because they are designed to connect to Defendants' servers and data centers (including, e.g., cloud-based servers and backend support), related online interfaces (including, e.g., mobile apps and web portals), and related accessories (e.g., remote temperature sensors), upon importation in the United States. Further, Defendants' smart thermostat systems are "smart" because they support and are marketed as providing features to end users that analyze thermostat and HVAC system data gathered by the smart thermostat systems.

13. The accused smart thermostats constitute the "frontend" of the smart thermostat system, smart HVAC system, and/or smart HVAC control system. Such smart thermostat devices can be programmed using the servers and the network maintained by Defendants and which form the "backend" for the smart thermostat. Such smart thermostat systems can be programmed remotely with a web or mobile application offered by Defendants. The web or mobile application communicates with the smart thermostat via computer servers or data centers managed by Defendants, who sell and import the smart thermostat. Each Defendant allows an end user to use a web or mobile application on a mobile phone, tablet, laptop, or other computing device to control the smart thermostat systems, such as by adjusting temperature settings. Defendants' smart thermostat systems also communicate data using the network. For example, Defendants' smart thermostat systems send and receive temperature data and/or temperature settings using the network.

14. Defendants' Accused Products are designed and specially made and adapted to infringe claims of the Asserted Patents and to embody a material part of the claimed inventions. The Accused Products are installed and used in the United States according to Defendants' design

and instructions. Defendant has knowledge as well as notice of its infringement of each Asserted Patent at least as of October 21, 2019 in the case of certain patents and at least as of May 26, 2020 in the case of other patents. Defendants knowingly induces and encourages the use of the Accused Products in the United States in a manner that infringes the asserted claims of the Asserted Patents. Defendants infringe the Asserted Patents directly, through making, using, selling, and/or offering for sale the Accused Products. Defendants also infringe the Asserted Patents indirectly, both for example through contributory infringement as well as through induced infringement. The infringement of the Asserted Patents is also attributable to Defendants. Defendants and/or users of the Accused Products direct and control use of the Accused Products to perform acts that result in infringement of the Asserted Patents, conditioning benefits on participation in the infringement and establishing the timing and manner of the infringement.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 8,423,322

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

16. Plaintiff owns all rights, title, and interest in United States Patent No. 8,423,322, titled “System and method for evaluating changes in the efficiency of an HVAC system.” The ’322 Patent was duly and legally issued by the United States Patent and Trademark Office on April 16, 2013. Plaintiff is the owner and assignee, possessing all substantial rights, to the ’322 Patent. A true and correct copy of the ’322 Patent is attached as Exhibit 1.

17. On information and belief, Defendants make, use, offer for sale, sell, and/or import certain smart thermostat products (“Accused Products”), including without limitation Alarm.com and/or Alarm.com subsidiaries and/or PointCentral products and solutions, such as smart

thermostats such as the ADC-T2000 and T3000 smart thermostats, control hubs or panels such as PointHub, PointCentral Smart Hub, etc., any backend or cloud servers and data centers for the foregoing (e.g., cloud-based servers and backend support), such as backend cloud servers controlled by Alarm.com, Alarm.com subsidiary/affiliate, PointCentral, etc., related interfaces (e.g., mobile apps and web portals, such as Alarm.com application), or related accessories (e.g., remote sensors), that directly infringe, literally and/or under the doctrine of equivalents, claims 1-14 of the '322 Patent.

18. The infringement of the '322 Patent is also attributable to Defendants. Defendants and/or users of the Accused Products direct and control use of the Accused Products to perform acts that result in infringement of the patent, conditioning benefits on participation in the infringement and establishing the timing and manner of the infringement.

19. Defendants also knowingly and intentionally induce infringement of claims of the '322 Patent in violation of 35 U.S.C. § 271(b). Since at least October 21, 2019, Defendants have had knowledge of the '322 Patent and the infringing nature of the Accused Products. Despite this knowledge of the '322 Patent, Defendants continue to actively encourage and instruct their customers and end users (for example, through user manuals and online instruction materials on their website) to use the Accused Products in ways that directly infringe the '322 Patent. Defendants do so knowing and intending that their customers and end users will commit these infringing acts. Defendants also continue to make, use, offer for sale, sell, and/or import the Accused Products, despite their knowledge of the '322 Patent, thereby specifically intending for and inducing their customers to infringe the '322 Patent through the customers' normal and customary use of the Accused Products.

20. Defendants have also infringed, and continue to infringe, claims of the '322 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 '322 Patent, in violation of 35 U.S.C. § 271(c).

21. The Accused Products satisfy all claim limitations of claims of the '322 Patent. A claim chart comparing claim elements of the '322 Patent to representative Accused Products is attached as Exhibit 2.

22. 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 '322 Patent pursuant to 35 U.S.C. § 271.

23. As a result of Defendants' infringement of the '322 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.

24. Defendants' infringing activities have injured and will continue to injure Plaintiff, unless and until this Court enters an injunction prohibiting further infringement of the '322 Patent, and, specifically, enjoining further manufacture, use, sale, importation, and/or offers for sale that come within the scope of the patent claims.

25. Defendants also, within the meaning of 35 U.S.C. § 284, knowingly, willfully, recklessly, egregiously and wantonly continue to infringe the '322 Patent, through making, using,

selling, offering to sell and/or importing Accused Products with knowledge, since at least October 21, 2019, that these activities infringe the '322 Patent. Plaintiff is therefore entitled to enhanced damages.

COUNT II

INFRINGEMENT OF U.S. PATENT NO. 8,131,497

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

27. Plaintiff is the owner and assignee of United States Patent No. 8,131,497, titled “System and method for calculating the thermal mass of a building.” The '497 patent was duly and legally issued by the United States Patent and Trademark Office on March 6, 2012. Plaintiff is the owner and assignee, possessing all substantial rights, to the '497 Patent. A true and correct copy of the '497 Patent is attached as Exhibit 3.

28. On information and belief, Defendants make, use, offer for sale, sell, and/or import certain smart thermostat products (“Accused Products”), including without limitation Alarm.com and/or Alarm.com subsidiaries and/or PointCentral products and solutions, such as smart thermostats such as the ADC-T2000 and T3000 smart thermostats, control hubs or panels such as PointHub, PointCentral Smart Hub, etc., any backend or cloud servers and data centers for the foregoing (e.g., cloud-based servers and backend support), such as backend cloud servers controlled by Alarm.com, Alarm.com subsidiary/affiliate, PointCentral, etc., related interfaces (e.g., mobile apps and web portals, such as Alarm.com application), or related accessories (e.g., remote sensors), that directly infringe, literally and/or under the doctrine of equivalents, claims 1-12 of the '497 Patent.

29. The infringement of the '497 Patent is also attributable to Defendants. Defendants

and/or users of the Accused Products direct and control use of the Accused Products to perform acts that result in infringement of the patent, conditioning benefits on participation in the infringement and establishing the timing and manner of the infringement.

30. Defendants also knowingly and intentionally induce infringement of claims of the '497 Patent in violation of 35 U.S.C. § 271(b). Since at least October 21, 2019, Defendants have had knowledge of the '497 Patent and the infringing nature of the Accused Products. Despite this knowledge of the '497 Patent, Defendants continue to actively encourage and instruct their customers and end users (for example, through user manuals and online instruction materials on their website) to use the Accused Products in ways that directly infringe the '497 Patent. Defendants do so knowing and intending that their customers and end users will commit these infringing acts. Defendants also continue to make, use, offer for sale, sell, and/or import the Accused Products, despite their knowledge of the '497 Patent, thereby specifically intending for and inducing their customers to infringe the '497 Patent through the customers' normal and customary use of the Accused Products.

31. Defendants have also infringed, and continue to infringe, claims of the '497 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 '497 Patent, in violation of 35 U.S.C. § 271(c).

32. The Accused Products satisfy all claim limitations of claims of the '497 Patent. A

claim chart comparing claim elements of the '497 Patent to representative Accused Products is attached as Exhibit 4.

33. 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 '497 Patent pursuant to 35 U.S.C. § 271.

34. As a result of Defendants' infringement of the '497 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 '497 Patent, and, specifically, enjoining further manufacture, use, sale, importation, and/or offers for sale that come within the scope of the patent claims.

36. Defendants also, within the meaning of 35 U.S.C. § 284, knowingly, willfully, recklessly, egregiously and wantonly continue to infringe the '497 Patent, through making, using, selling, offering to sell and/or importing Accused Products with knowledge, since at least October 21, 2019, that these activities infringe the '497 Patent. Plaintiff is therefore entitled to enhanced damages.

COUNT III

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

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

38. Plaintiff owns all rights, title, and interest in 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 5.

39. On information and belief, Defendants make, use, offer for sale, sell, and/or import certain smart thermostat products (“Accused Products”), including without limitation Alarm.com and/or Alarm.com subsidiaries and/or PointCentral products and solutions, such as smart thermostats such as the ADC-T2000 and T3000 smart thermostats, control hubs or panels such as PointHub, PointCentral Smart Hub, etc., any backend or cloud servers and data centers for the foregoing (e.g., cloud-based servers and backend support), such as backend cloud servers controlled by Alarm.com, Alarm.com subsidiary/affiliate, PointCentral, etc., related interfaces (e.g., mobile apps and web portals, such as Alarm.com application), or related accessories (e.g., remote sensors), that directly infringe, literally and/or under the doctrine of equivalents, claims 1-19 of the ’327 Patent.

40. The infringement of the ’327 Patent is also attributable to Defendants. Defendants and/or users of the Accused Products direct and control use of the Accused Products to perform acts that result in infringement of the patent, conditioning benefits on participation in the infringement and establishing the timing and manner of the infringement.

41. Defendants also knowingly and intentionally induce infringement of claims of the ’327 Patent in violation of 35 U.S.C. § 271(b). Since at least May 26, 2020, Defendants have had knowledge of the ’327 Patent and the infringing nature of the Accused Products. Despite this knowledge of the ’327 Patent, Defendants continue to actively encourage and instruct their customers and end users (for example, through user manuals and online instruction materials on

their website) to use the Accused Products in ways that directly infringe the '327 Patent. Defendants do so knowing and intending that their customers and end users will commit these infringing acts. Defendants also continue to make, use, offer for sale, sell, and/or import the Accused Products, despite their knowledge of the '327 Patent, thereby specifically intending for and inducing their customers to infringe the '327 Patent through the customers' normal and customary use of the Accused Products.

42. The Accused Products satisfy all claim limitations of claims of the '327 Patent. A claim chart comparing claim elements of the '327 Patent to representative Accused Products is attached as Exhibit 6.

43. 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.

44. 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 Defendants, together with interest and costs as fixed by the Court.

45. 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.

46. Defendants also, within the meaning of 35 U.S.C. § 284, knowingly, willfully, recklessly, egregiously and wantonly continue to infringe the '327 Patent, through making, using, selling, offering to sell and/or importing Accused Products with knowledge, since at least May 26,

2020, that these activities infringe the '327 Patent. Plaintiff is therefore entitled to enhanced damages.

COUNT IV

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

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

48. Plaintiff owns all rights, title, and interest in 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 7.

49. On information and belief, Defendants make, use, offer for sale, sell, and/or import certain smart thermostat products ("Accused Products"), including without limitation Alarm.com and/or Alarm.com subsidiaries and/or PointCentral products and solutions, such as smart thermostats such as the ADC-T2000 and T3000 smart thermostats, control hubs or panels such as PointHub, PointCentral Smart Hub, etc., any backend or cloud servers and data centers for the foregoing (e.g., cloud-based servers and backend support), such as backend cloud servers controlled by Alarm.com, Alarm.com subsidiary/affiliate, PointCentral, etc., related interfaces (e.g., mobile apps and web portals, such as Alarm.com application), or related accessories (e.g., remote sensors), that directly infringe, literally and/or under the doctrine of equivalents, claims 1-16 of the '488 Patent.

50. The infringement of the '488 Patent is also attributable to Defendants. Defendants and/or users of the Accused Products direct and control use of the Accused Products to perform

acts that result in infringement of the patent, conditioning benefits on participation in the infringement and establishing the timing and manner of the infringement.

51. Defendants also knowingly and intentionally induce infringement of claims of the '488 Patent in violation of 35 U.S.C. § 271(b). Since at least May 26, 2020, Defendants have had knowledge of the '488 Patent and the infringing nature of the Accused Products. Despite this knowledge of the '488 Patent, Defendants continue to actively encourage and instruct their customers and end users (for example, through user manuals and online instruction materials on their website) to use the Accused Products in ways that directly infringe the '488 Patent. Defendants do so knowing and intending that their customers and end users will commit these infringing acts. Defendants also continue to make, use, offer for sale, sell, and/or import the Accused Products, despite their knowledge of the '488 Patent, thereby specifically intending for and inducing their customers to infringe the '488 Patent through the customers' normal and customary use of the Accused Products.

52. The Accused Products satisfy all claim limitations of claims of the '488 Patent. A claim chart comparing claim elements of the '488 Patent to representative Accused Products is attached as Exhibit 8.

53. 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 '488 Patent pursuant to 35 U.S.C. § 271.

54. 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.

55. 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.

56. Defendants also, within the meaning of 35 U.S.C. § 284, knowingly, willfully, recklessly, egregiously and wantonly continue to infringe the '488 Patent, through making, using, selling, offering to sell and/or importing Accused Products with knowledge, since at least May 26, 2020, that these activities infringe the '488 Patent. Plaintiff is therefore entitled to enhanced damages.

COUNT V

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

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

58. Plaintiff owns all rights, title, and interest in 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 9.

59. On information and belief, Defendants make, use, offer for sale, sell, and/or import certain smart thermostat products ("Accused Products"), including without limitation Alarm.com and/or Alarm.com subsidiaries and/or PointCentral products and solutions, such as smart thermostats such as the ADC-T2000 and T3000 smart thermostats, control hubs or panels such as PointHub, PointCentral Smart Hub, etc., any backend or cloud servers and data centers for the

foregoing (e.g., cloud-based servers and backend support), such as backend cloud servers controlled by Alarm.com, Alarm.com subsidiary/affiliate, PointCentral, etc., related interfaces (e.g., mobile apps and web portals, such as Alarm.com application), or related accessories (e.g., remote sensors), that directly infringe, literally and/or under the doctrine of equivalents, claims 1-20 of the '382 Patent.

60. The infringement of the '382 Patent is also attributable to Defendants. Defendants and/or users of the Accused Products direct and control use of the Accused Products to perform acts that result in infringement of the patent, conditioning benefits on participation in the infringement and establishing the timing and manner of the infringement.

61. Defendants also knowingly and intentionally induce infringement of claims of the '382 Patent in violation of 35 U.S.C. § 271(b). Since at least May 26, 2020, Defendants have had knowledge of the '382 Patent and the infringing nature of the Accused Products. Despite this knowledge of the '382 Patent, Defendants continue to actively encourage and instruct their customers and end users (for example, through user manuals and online instruction materials on their website) to use the Accused Products in ways that directly infringe the '382 Patent. Defendants do so knowing and intending that their customers and end users will commit these infringing acts. Defendants also continue to make, use, offer for sale, sell, and/or import the Accused Products, despite their knowledge of the '382 Patent, thereby specifically intending for and inducing their customers to infringe the '382 Patent through the customers' normal and customary use of the Accused Products.

62. The Accused Products satisfy all claim limitations of claims of the '382 Patent. A claim chart comparing claim elements of the '382 Patent to representative Accused Products is attached as Exhibit 10.

63. 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.

64. 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.

65. 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.

66. Defendants also, within the meaning of 35 U.S.C. § 284, knowingly, willfully, recklessly, egregiously and wantonly continue to infringe the '382 Patent, through making, using, selling, offering to sell and/or importing Accused Products with knowledge, since at least May 26, 2020, that these activities infringe the '382 Patent. Plaintiff is therefore entitled to enhanced damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter:

a. A judgment in favor of Plaintiff that Defendants have infringed, literally and/or under the doctrine of equivalents, the '322 Patent, the '497 Patent, the '327 Patent, the '488 Patent, and the '382 Patent;

b. A judgment in favor of Plaintiff that Defendants' infringement of the '322 Patent, the '497 Patent, the '327 Patent, the '488 Patent, and the '382 Patent has been willful and egregious

under 35 U.S.C. § 284;

c. A permanent injunction prohibiting Defendants from further acts of infringement of the '322 Patent, the '497 Patent, the '327 Patent, the '488 Patent, and the '382 Patent;

d. 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 '322 Patent, the '497 Patent, the '327 Patent, the '488 Patent, and the '382 Patent;

e. 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;

f. 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

g. 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 10, 2022

Respectfully submitted,

/s/ Ryan Mauck
Ryan S. Mauck, OSB No. 194153
MAUCK LAW
2900 NW Clearwater Dr, Ste 200
Bend, Oregon 97703
Tel: 541-203-6794
rmauck@maucklaw.com

Reza Mirzaie (*pro hac vice* to be filed)
RUSS AUGUST & KABAT
12424 Wilshire Boulevard 12th Floor
Los Angeles, California 90025
Tel: 310-826-7474
Fax: 310-826-6991
rak_ecofactor@raklaw.com

Attorneys for Plaintiff EcoFactor, Inc.