

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

MONUMENT PEAK VENTURES, LLC	§	
Plaintiff,	§	
	§	Civil Action No. 6:22-cv-635
v.	§	
	§	
VIVINT, INC.,	§	Jury Trial Demanded
Defendant.	§	

COMPLAINT AND JURY DEMAND

Plaintiff Monument Peak Ventures, LLC (“MPV”) alleges for its Complaint for patent infringement against Vivint, Inc. (“Vivint”) the following:

THE PARTIES

1. Plaintiff, Monument Peak Ventures, LLC, is a Texas Limited Liability Company with its principal place of business in Plano, Texas.
2. Vivint sells and provides security hardware, software, installation, support and premises monitoring for more than 26 million in-home devices for over 1.9 million subscribers as of December 31, 2021.
3. Vivint, Inc. is a corporation existing under the laws of the State of Utah with its principal place of business at 4931 North 300 West, Provo, Utah 84604 and regular and established places of business at several locations in the district. Vivint, Inc. is registered to conduct business in Texas.
4. Vivint Smart Home, Inc. is a holding company organized under

Delaware laws. *See SB IP Holdings LLC v. Vivint Smart Home, Inc.*, Case No. 4:21-CV-00912, (E.D. Tex.), ECF 6 at 5-6. Vivint Smart Home, Inc. is the parent company and owner of its wholly owned subsidiary Vivint, Inc. Vivint Smart Home, Inc. asserts that it merely holds ownership interest in its subsidiaries (including Vivint, Inc.) and does not design, develop, produce, manufacture, or otherwise create any products, processes, or applications. *Id.* at 6; ECF 6-1 at ¶ 6-8. Vivint Smart Home, Inc. asserts it does not place any products into the stream of commerce. *Id.* at ¶ 9. Vivint Smart Home, Inc. asserts that it does not design, develop, produce, manufacture, or otherwise create control panels, IP cameras, video recording accessories for use with its video doorbells and IP camera, Doorbell Camera, Doorbell Camera Pro, Control Panel, Outdoor Camera Pro, Smart Drive Playback DVR, Android, and iOS apps for use with recording and other products. *Id.* at ECF 6 at 5-6; ECF 6-1 at ¶8-9.

5. Vivint may be served with process through its registered agent, CT Corporation System at 1999 Bryan Street, Suite 900 Dallas, Texas 75201-3136.

JURISDICTION AND VENUE

6. MPV brings this action for patent infringement under the patent laws of the United States, namely 35 U.S.C. §§ 271, 281, and 284-285, among others. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(c) and 1400(b). Vivint does business in this judicial district, has committed acts of infringement in this judicial district, has purposely sought and transacted business in this judicial district involving the accused products, and has a regular and established place of business in this judicial district at 306C N Edward Gary St., San Marcos, Texas 78666; 3311 N Interstate Hwy 35 #101, Austin, Texas 78722; 717 Franklin Ave. Waco, Texas 76701; 2010 SW H K Dodgen Loop #104, Temple, Texas 76504; and 4164 N Mesa St. #103, El Paso, Texas 79902.

8. Vivint is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long-Arm Statute, due at least to its substantial business in this State and judicial district, including: (a) at least part of its infringing activities alleged herein; and (b) regularly doing or soliciting business, engaging in other persistent conduct, and/or deriving substantial revenue from goods sold and services provided to Texas residents including in this district.

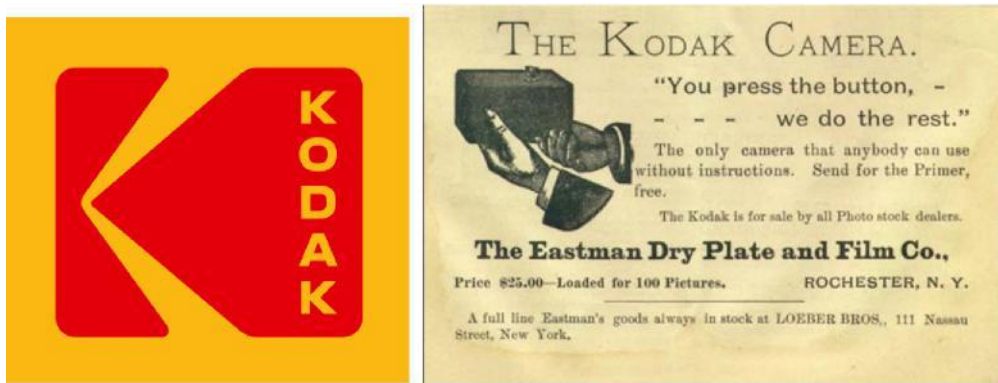
9. Vivint admits it offers products and services and conducts business in this district. *See Ecofactor, Inc. v. Vivint, Inc.*, Case No. 6:22-cv-00034-ADA, In the United States District Court for the Western District of Texas, Waco Division, ECF 11, ¶ 8-9. In March 2022, Vivint admitted that venue is proper in this district. *Id.*

MONUMENT PEAK

10. MPV owns a portfolio of patents invented by the Eastman Kodak Company. Since acquiring the Kodak portfolio, MPV has promoted adoption of technologies claimed in the Kodak portfolio and has entered into license agreements with over forty companies.

11. The Asserted Patents claim inventions born from the ingenuity of the Eastman Kodak Company, an iconic American imaging technology company that dates back to the late 1800s.

12. The first model of a Kodak camera was released in 1888.



13. In 1935, Kodak introduced “Kodachrome,” a color reversal stock for movie and slide film.

14. In 1963, Kodak introduced the Instamatic camera, an easy-to-load point-and-shoot camera.



15. By 1976, Kodak was responsible for 90% of the photographic film and 85% of the cameras sold in the United States.

16. At the peak of its domination of the camera industry, Kodak invented the first self-contained digital camera in 1975.



17. By 1986, Kodak had created the first megapixel sensor that was capable of recording 1,400,000 pixels.

18. While innovating in the digital imaging space, Kodak developed an immense patent portfolio and extensively licensed its technology in the space.

19. In 2010, Kodak received \$838,000,000 in patent licensing revenue.

20. As part of a reorganization of its business, Kodak sold many of its patents to some of the biggest names in technology that included Google, Facebook, Amazon, Microsoft, Samsung, Adobe Systems, HTC and others for \$525,000,000.

21. While scores of digital imaging companies have paid to license the Kodak patent portfolio owned by MPV, Vivint, without justification, has refused to do so.

NATURE OF THE ACTION

22. MPV asserts that Vivint infringes, directly and indirectly, U.S. Patent Nos. 8,665,345, 7,730,036, 8,024,311 and 8,305,452 (the “MPV Asserted Patents”).

23. A true and correct copy of U.S. Patent No. 8,665,345 (the “’345 Patent”), titled “Video Summary Including a Feature of Interest,” is attached as Exhibit A.

24. A true and correct copy of U.S. Patent No. 7,730,036 (the “’036 Patent”), titled “Event-Based Digital Content Record Organization,” is attached as Exhibit B.

25. A true and correct copy of U.S. Patent No. 8,024,311 (the “’311 Patent”), titled “Identifying Media Assets from Contextual Information,” is

attached as Exhibit C.

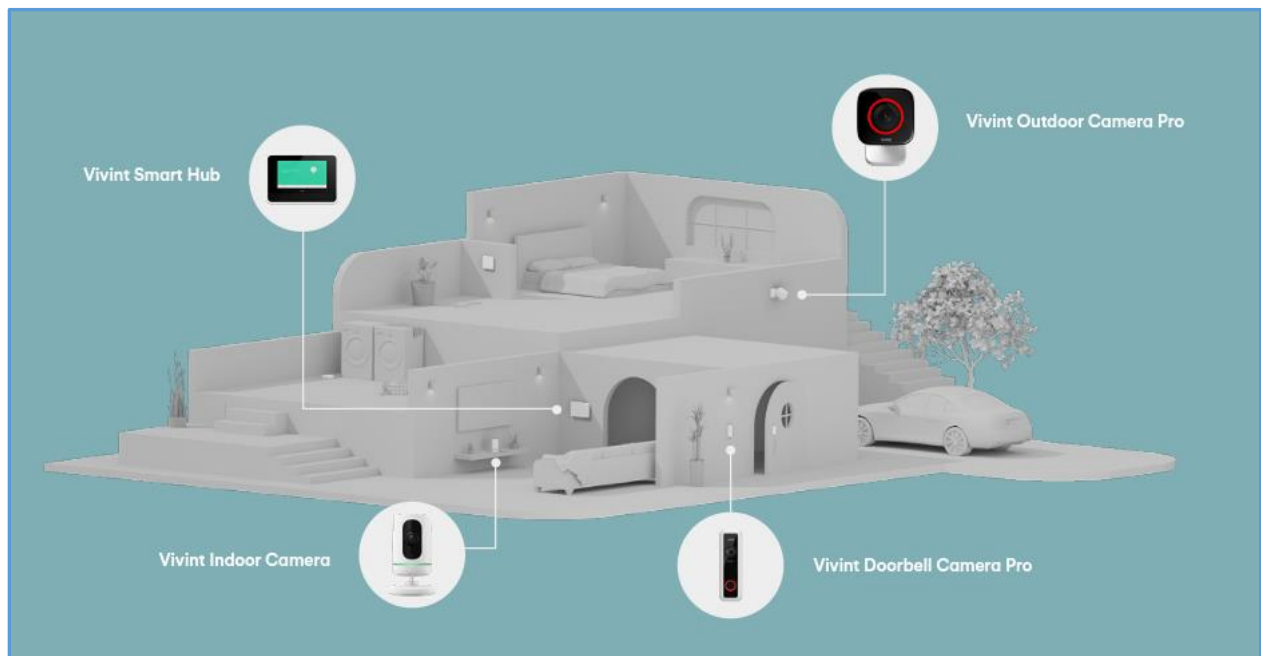
26. A true and correct copy of U.S. Patent No. 8,305,452 (the “’452 Patent”), titled “Remote Determination of Image-Acquisition Settings and Opportunities,” is attached as Exhibit D.

VIVINT



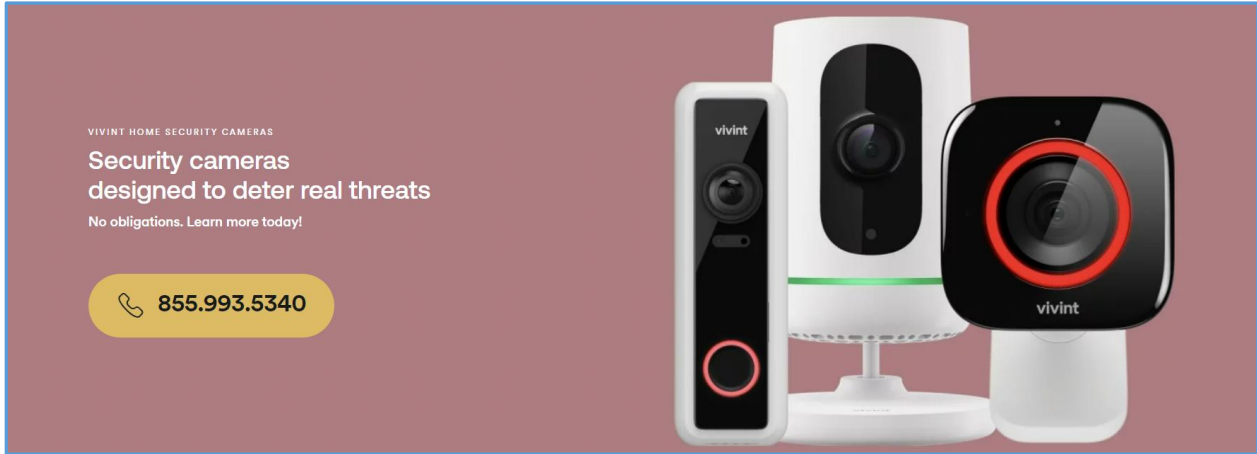
27. Vivint is a smart home platform company that provides technology, products and services to create a smarter, safer home.

28. Vivint sells its integrated platform, cameras, and sensors along with professional installation and monitoring.

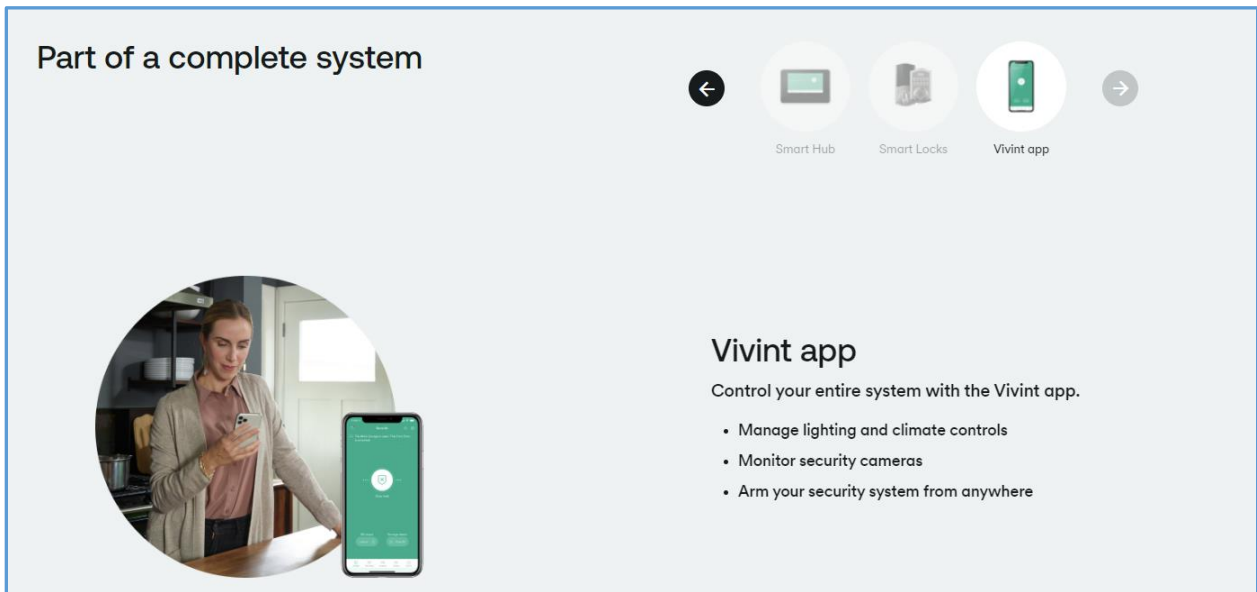


Vivint Brochure, The Top 5 Security Essentials.

29. Vivint integrates smart cameras (indoor, outdoor, doorbell) to its cloud-based home platform.



<https://www.vivint.com/ppc/cameras>



<https://www.vivint.com/ppc/cameras>

30. Vivint provides a fully integrated solution for consumers which includes hardware, software, sales, installation, and support.

31. Vivint's home platform currently manages more than 26 million in-

home devices as of December 31, 2021.

32. Vivint's smart home app provides recorded video inside and outside subscribers' homes and the average Vivint subscriber engages with Vivint's smart home app approximately 11 times per day.

33. Vivint advertises its success as tied to the importance of "owning the entire technology stack, coupled with an end-to-end distribution model, [which] leads to an exceptional customer experience."

34. Vivint's integrated Smart Home business model generates subscription-based, high-margin revenue from subscribers who sign up for Vivint's smart home services that include its Smart Drive Playback DVR and Smart Home Application.

35. Vivint makes, uses, offers to sell, sells, and/or imports products including indoor, outdoor and doorbell cameras including but not limited to the Outdoor Camera Pro, Ping, Indoor Camera, Doorbell Camera, Doorbell Camera Pro and all other similar products ("Vivint Camera Products"), control panels including the Vivint Smart Hub and all other similar products ("Vivint Hub"), applications available on both Android and iOS including the Smart Home App, Sky App and all other similar products which allow users to view playback features including Smart Clips, Smart Drive Playback DVR and all other similar products and control and monitor their security and smart home experience

(“Smart Home App”), sensors including door and window sensors including surface-mounted, recessed, motion sensors, glass break detector and water sensors and all other similar products (“Sensors”), and storage via the cloud on the Vivint Smart Drive and all other similar products (“Smart Drive”).

36. The Vivint products and services accused in this case include the Vivint security and monitoring services, Vivint Camera Products, Vivint Hub, Smart Home App, Sensors, and Smart Drive and all other similar products.

37. Vivint realizes substantial value from using the subject matter claimed in the Asserted Patents in products such as Vivint Camera Products, Vivint Hub, Smart Home App, Sensors, and Smart Drive.

Defendants’ Notice of the Asserted Patents and Refusal to License

38. Since at least July 7, 2021, MPV has contacted Vivint over thirty-five times concerning its infringement with no response. In its initial communications with Vivint, MPV provided Vivint information concerning the Kodak patent portfolio, including charts detailing their infringement of the ’452 and ’345 Patents, and offering licensing opportunities. Following those initial communications, Defendants continued to use, sell, offer for sale, and/or import into the United States their infringing products (detailed below) through the filing of this Complaint. Vivint never responded.

39. Thereafter, MPV continuously renewed its requests to discuss

licensing of the Asserted Patents for another eight months through May 17, 2022. Again, Vivint never responded. Throughout those subsequent communications, Defendants continued to use, sell, offer for sale, and/or import into the United States the infringing products (detailed below) through the filing of this Complaint.

40. With knowledge of MPV's patents and how MPV alleges Vivint infringes them, Vivint continued their infringing activity with knowledge of the Asserted Patents recklessly disregarding MPV's patent rights and intentionally ignoring MPV's requests to discuss licensing.

41. Vivint's infringement has been ongoing, willful and in bad faith since at least July 7, 2021.

MPV's '345 PATENT

42. The '345 Patent was issued by the United States Patent and Trademark Office on March 4, 2014, and is titled "Video Summary Including a Feature of Interest." *See* Exhibit A.

43. The '345 Patent generally pertains to the improved formation of a digital video summary, and more particularly, is directed to solving the problems of providing a quick, readily sharable, and particularized summary of a digital video.

44. Application No. 13/110,085, filed on May 18, 2011, issued as the '345 Patent. In May 2011, managing digital video content could be a difficult task.

One difficulty was facilitating a quick review and sharing of captured videos.

Videos were often represented visually with a thumbnail image of the first frame of the video, and thus did not necessarily provide much insight into the content of the video. Determining if something specific was contained in a given video often required viewing the entire video which could be very time consuming, especially for a lengthy video.

45. Additionally, managing digital videos presented practical problems from a sharing perspective. For example, many digital capture devices recorded video at 30 or 60 frames per second at spatial resolutions of 1920 x 1080 pixels. Even if compressed, the amount of data generated in even relatively short videos could make the videos impractical to share.

46. Further, providing particular context for a video summary to have a specific feature within the summary (e.g., people, pets, events, locations, activities, or objects), by manually creating such a tailored video summary, could be an undesirably tedious process.

47. Although video editing software could be used to manually summarize a video into a shorter version that could be shared more easily, this type of editing could be a lengthy, laborious process not producing an immediate result, and many users were not interested or skilled in manual editing. Further, complex summarization algorithms required decoding the video to perform the analysis

required to make the video summary. Thus, it was not possible on a digital capture device to immediately view a video summary corresponding to a just captured video. This shortcoming made it difficult to facilitate quick review and sharing of captured videos. The state of the art at the time of the invention did not include using metadata generated in real time to construct a real time video summary. Providing particular context for a video summary to have a specific feature within the summary (e.g., people, pets, events, locations, activities, or objects), by manually creating such a tailored video summary, could be an undesirably tedious process.

48. The '345 claims neither describe nor claim a concept or a generic computerized system and instead the claims address, among other things, a persistent problem unique to digital video cameras at the time of the invention whereby the capturing of videos created large video files that were difficult for camera users to make effective use of and manage. The '345 Patent provides systems and methods for computing a video summary to automatically analyze image frames in a video sequence using a feature recognition algorithm and to identify a subset of the image frames that contain the feature or a desired characteristic. A video summary is then formed including at least part of the identified subset of image frames containing the feature of interest and having the desired characteristic. Analyzing the video frames at the time of capture to

determine a subset of video frames containing a feature of interest eliminates the need to decompress the video data at the time the video summary is created and is a technical solution to a technical problem.

49. A person of ordinary skill in the art at the time of the invention would recognize that the steps and methods claimed by the '345 Patent were unconventional and would understand that the conventional way of generating a video summary were time-consuming and tedious as well as not being easily sharable, and not necessarily specifically reflective of particular content in the video.

50. The novel use and arrangement of the specific combination, steps, system, and devices recited by the '345 Patent were not well-understood, routine, or conventional to a person skilled in the relevant field at the time of the inventions. In particular, the combination of steps in at least Claim 16 of the '345 Patent were not well understood, routine, or conventional to a person of skill in the relevant field at the time of the inventions.

51. For example, during prosecution of the '345 Patent, the patent examiner acknowledged that the primary prior art reference did not disclose “reference data separate from a reference in the captured video sequence” that is used to “form a video summary ... containing the feature of interest.” Further, even the cited combination of references did not disclose, among other things, reference

data including information specifying a “desired characteristic” of the image frames or a video summary including fewer than all of the image frames in the captured video sequence, wherein the video summary includes at least part of the identified subset of image frames containing the feature of interest and having the “desired characteristic.”

52. Comparing the '345 Patent claimed inventions against the state of the art illustrates, in part, the unconventionality and inventiveness of the claimed inventions. Further, the inventive features of the '345 Patent claims have multiple inventive advantages over conventional prior art, including with respect to overcoming the shortcomings noted above. Thus, the novel use and arrangement of the specific combination, steps, system, and devices recited by the '345 Patent were not well-understood, routine, or conventional to a person skilled in the relevant field at the time of the inventions including the combination of steps in Claim 16 of the '345 Patent.

53. The '345 Patent systems and methods for computing a video summary improves the prior art systems and methods, providing the advantages of allowing a relatively small video summary to be generated on a digital device with minimal delay at the completion of video capture and providing a particularized video summary that contains a specified desired characteristic of the image frames.

MPV's '036 PATENT

54. The '036 Patent was issued by the United States Patent and Trademark Office on June 1, 2010, and is titled "Event-Based Digital Content Record Organization." *See* Exhibit B.

55. The '036 Patent generally relates to the field of digital image processing, and more particularly, to event-based organization of digital images, video and audio files.

56. At the time that the application leading to the '036 Patent was filed, collections of digital images, videos and/or audio files were largely manually organized and shared into collections and shared, for example, by uploading digital content online and self-selecting content relating to particular events. The invention described in the '036 Patent improves upon this process through the identification of "event boundaries" that are then applied to metadata associated with digital content, such that the content is organized based upon the metadata. The invention further describes defining event boundaries based on objects that are identified through object recognition metadata within digital content.

57. The prior art methods of digital content organization did not provide means to identify and select event boundaries based on a wide variety of metadata, including object recognition, location, and geographic location. The '036 Patent improved upon the prior art by, without limitation, (1) automating selection criteria

for digital content organization; (2) expanding the selection criteria available for the organization of digital content; (3) improving the accuracy of automated organization of digital content into events; and (4) associating digital content selection and organization with internet geolocation features.

58. The shortcomings of the prior art digital content organization methods were solved by the unconventional and inventive methods and systems claimed by the '036 Patent. A person of ordinary skill in the art at the time of the invention would recognize the steps and methods claimed in the '036 Patent were unconventional and described methods and systems of event-based organization of digital content that were not routine or well-understood.

MPV's '311 PATENT

59. The '311 Patent is titled "Identifying Media Assets from Contextual Information" and generally relates to the field of assisted annotation and retrieval of digital media assets, such as digital still images or video.

60. At the time that the application leading to the '311 Patent was filed, access and retrieval of digital still images and video had become increasingly daunting as the amount of digital image content to search drastically increased compared to access and retrieval of physical film. One solution provided that such content was manually annotated with text labels and stored in a database to be retrieved by keyword. However, manual annotation was both tedious and would

take increasingly unreasonable amounts of time to perform. Algorithms available at the time attempting to automate the task generally suffered from lack of high accuracy or would require excessive effort by the user.

61. The inventions described in the '311 Patent improved upon these prior art systems by using an event to identify media assets having associated contextual information, allowing fewer and more relevant media assets to have to be required to be retrieved and annotated as compared to the conventional techniques used at the time.

62. The methods and systems described in the '311 Patent improved upon the prior art by, without limitation, (1) providing for automated identification of media assets that are based on an event relevant to received contextual information; (2) providing a superset of captured images based on the contextual information; and (3) providing enhanced search results from the superset using an additional set of contextual information received after the first set.

63. The shortcomings of the prior art image enhancement methods were solved by the unconventional and inventive methods and systems claimed by the '311 Patent. A person of ordinary skill in the art at the time of the invention would recognize the steps and methods claimed in the '311 Patent were unconventional and the described methods and systems for image enhancement were not routine or well-understood.

MPV's '452 PATENT

64. The '452 Patent is titled "Remote Determination of Image-Acquisition Settings and Opportunities" and generally relates to remote determination of image-acquisition settings and opportunities for a digital camera using pre-image-acquisition information.

65. At the time the application leading to the '452 Patent was filed, many digital cameras relied on users selecting a "scene mode" (e.g., a "snow," "portrait," or "backlit") setting on the camera to set certain image acquisition settings (e.g., gain, and exposure time). One method for improving the camera's image acquisition settings was to increase the number of "scene" options available to the user. However, increasing the number of possible scene scenarios led to users being overwhelmed by the number of options. Further, cameras following this solution could have difficult-to-navigate menus that added to the problem of users finding the setting of such settings excessively complex.

66. Additionally, attempted automation of image acquisition settings tended to be computationally intensive thus increasing the cost and energy drain of the camera and/or causing a highly undesirable lag between shutter trip and image acquisition to occur in some cameras. Such lag is particularly undesirable when a subject to be photographed is in motion.

67. The '452 Patent provided a technical solution to address the problems

above, in part, by remotely obtaining pre-image-acquisition information such as audio information, illumination information, camera position information, camera orientation information, motion information, an announcement of the digital camera's presence, temperature information, humidity information, ceiling detection information, distance-to-subject information, spectral information, etc., allowing the determination of image-acquisition settings to be performed where data-processing resources and available data sources can greatly exceed those within the digital camera.

68. A person of ordinary skill in the art at the time of the invention would recognize that the steps and methods claimed by the '452 Patent were unconventional and would understand that the conventional way of generating image-acquisition settings was excessively complex and/or caused undesirable lag.

69. The novel use and arrangement of the specific combination, steps, system, and devices recited by the '452 Patent were not well-understood, routine, or conventional to a person skilled in the relevant field at the time of the inventions. In particular, the combination of steps in at least Claim 1 of the '452 Patent was not well-understood, routine, or conventional to a person of skill in the relevant field at the time of the inventions.

70. Comparing the '452 claimed inventions against the conventional state of the art at the time of the invention shows, in part, the unconventionality and

inventiveness of the '452 claimed inventions. The inventive features of '452 claimed inventions have multiple inventive advantages over conventional prior art, including with respect to overcoming the shortcomings noted above.

71. The '452 Patent systems and methods for remote determination of image-acquisition settings and opportunities for a digital camera improve the prior art systems and methods, providing the advantages of allowing a relatively simpler and more cost-effective digital camera to be produced without an undesirable lag between shutter trip and image acquisition.

**COUNT 1
(INFRINGEMENT OF U.S. PATENT NO. 8,665,345)**

72. MPV realleges and incorporates by reference the allegations set forth above as if restated verbatim here.

73. MPV is the owner, by assignment, of U.S. Patent No. 8,665,345 (the "'345 Patent") (Exhibit A). The '345 Patent was issued by the United States Patent and Trademark Office on March 4, 2014. *See* Exhibit A.

74. As the owner of the '345 Patent, MPV holds all substantial rights in and under the '345 Patent, including the right to grant licenses, exclude others, and to enforce, sue, and recover damages for past and future infringement.

75. The '345 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

76. MPV alleges that Vivint has infringed, and continues to infringe, the

'345 Patent.

77. Vivint makes, uses, offers to sell, sells, and/or imports products and services including its security and smart home services, Vivint Camera Products, Vivint Hub, Smart Home App and Smart Drive and all other similar products that infringe the '345 Patent.

78. Vivint has directly infringed at least claims 16,17, and 18 of the '345 Patent by using (including its own testing), making, selling, offering for sale, licensing, and/or importing into the United States without authority the Vivint Home Security, Vivint Smart Home products that include playback features that are utilized with Vivint monitoring services, Vivint Camera Products, Smart Home App, Vivint Hub and/or Smart Drive (“Vivint Accused Products”).

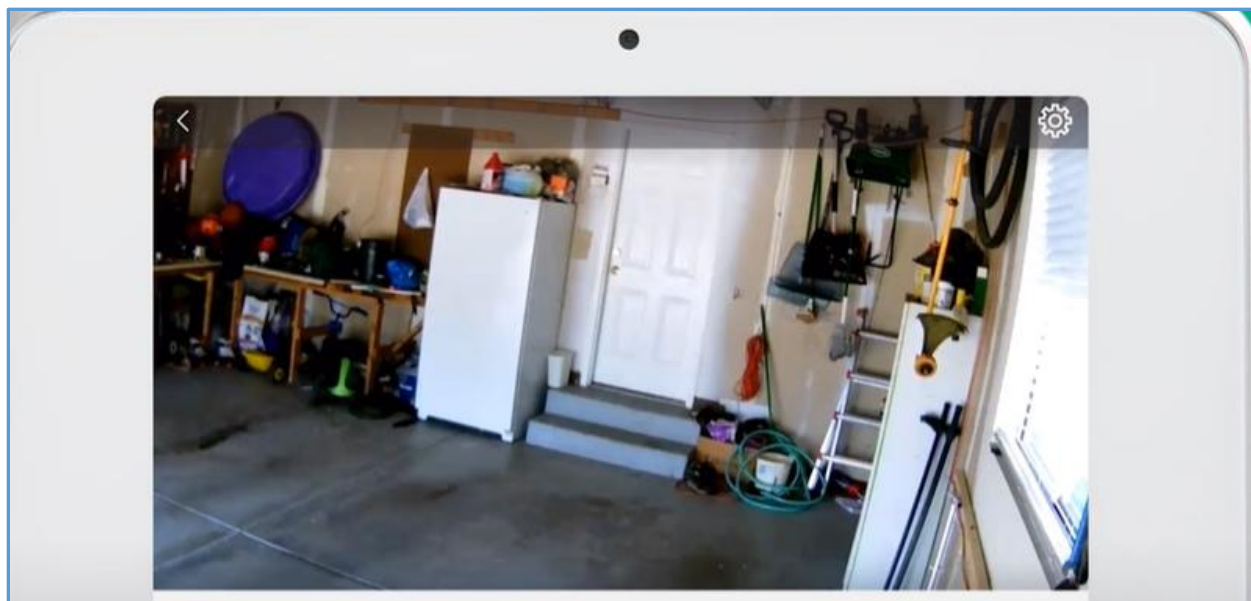
79. Without limitation, sale, importation and/or use of the Vivint Accused Products has comprised the steps noted below.

80. The Vivint Accused Products include playback which can be accessed on the Vivint Smart Home mobile app and Vivint Smart Hub. The Vivint Accused Products receive a video sequence including a time sequence of image frames.



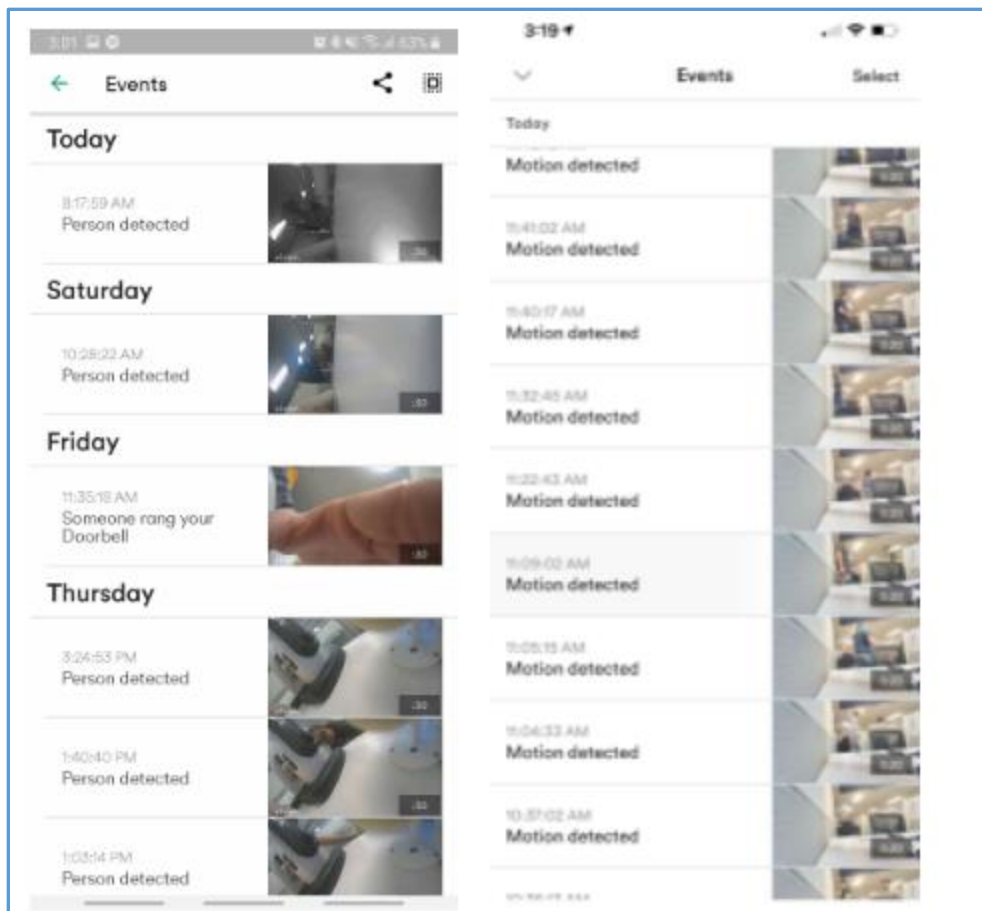
Record only what you need.

Vivint outdoor security cameras, the Ping indoor camera, and the Vivint Doorbell Camera Pro create motion-triggered Smart Clips. The clips are saved to give you time to catch up on anything you might have missed.



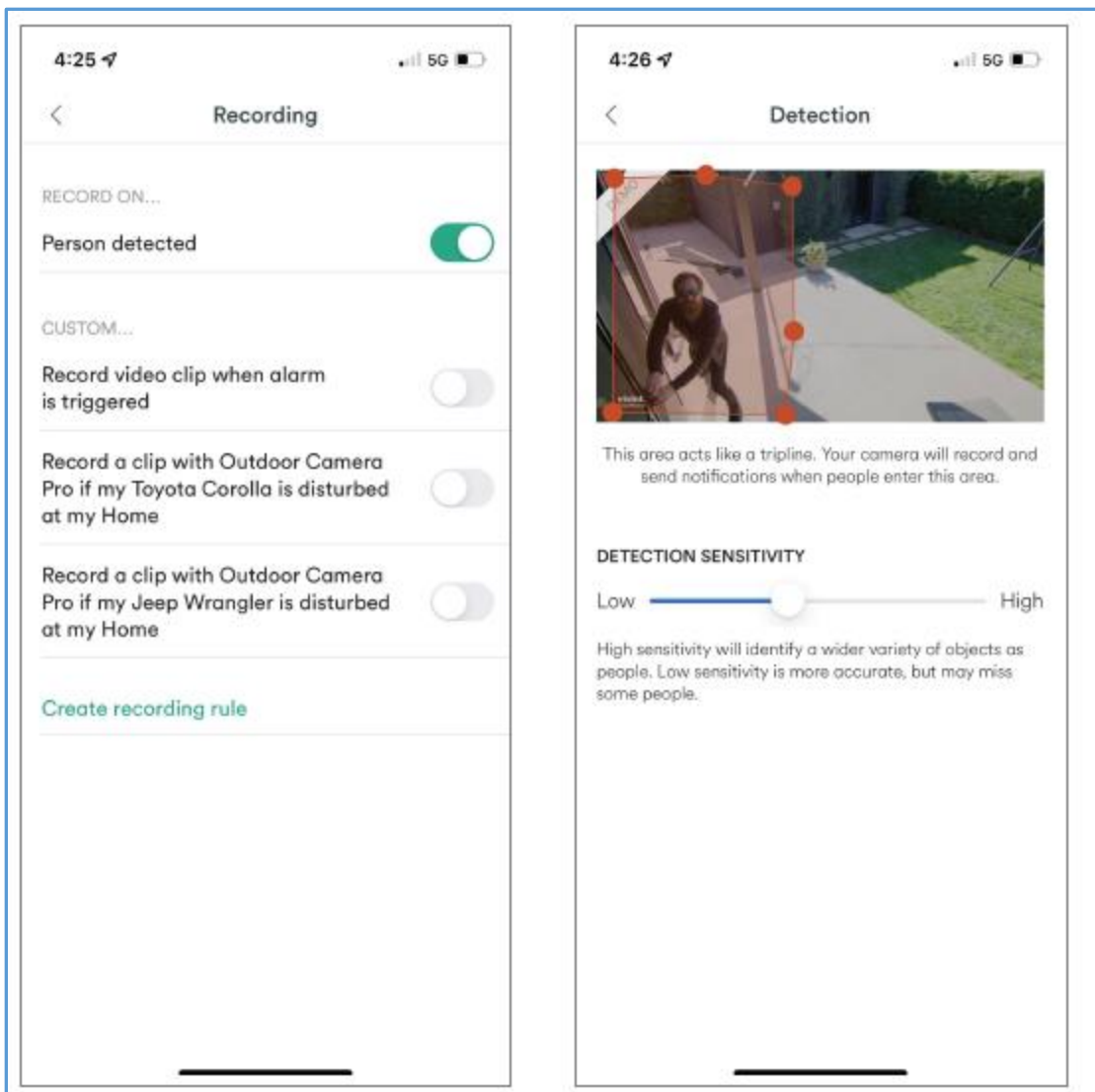
<https://www.youtube.com/watch?v=Ay1hCt9Beys>

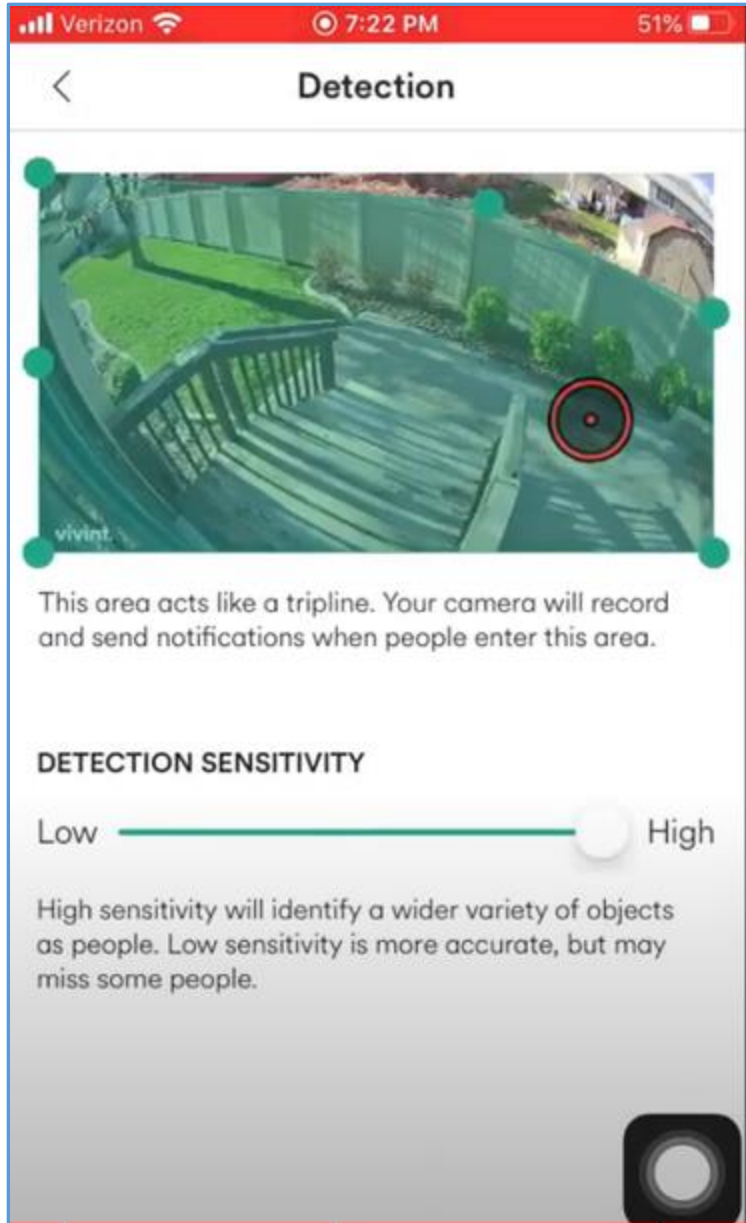
81. Events are sorted from most recent to oldest and include time sequence of image frames.



<https://support.vivint.com/s/article/Playback-How-To-Find-Events>

82. Vivint Accused Products specify motion detection data (i.e., “reference data”) separate from a reference in the received video, wherein the data indicates a detected person (i.e., “feature of interest”) and wherein the data includes information specifying a motion object box and the sensitivity of an object in the image frames (i.e., “desired characteristic of the image frames.”).





<https://www.youtube.com/watch?v=JScK4vzCYL8>

83. Vivint advertises that its cameras detect movement and record clips that make it easy to find, watch, and share footage. *See*

<https://www.vivint.com/products/ping>

84. Vivint cameras use a processor to automatically analyze the live video

images using a feature recognition algorithm to identify those video frames (i.e., “a subset of image frames”) that contain a person and have the desired object placement and sensitivity.



<https://www.youtube.com/watch?v=Ay1hCt9Beys>

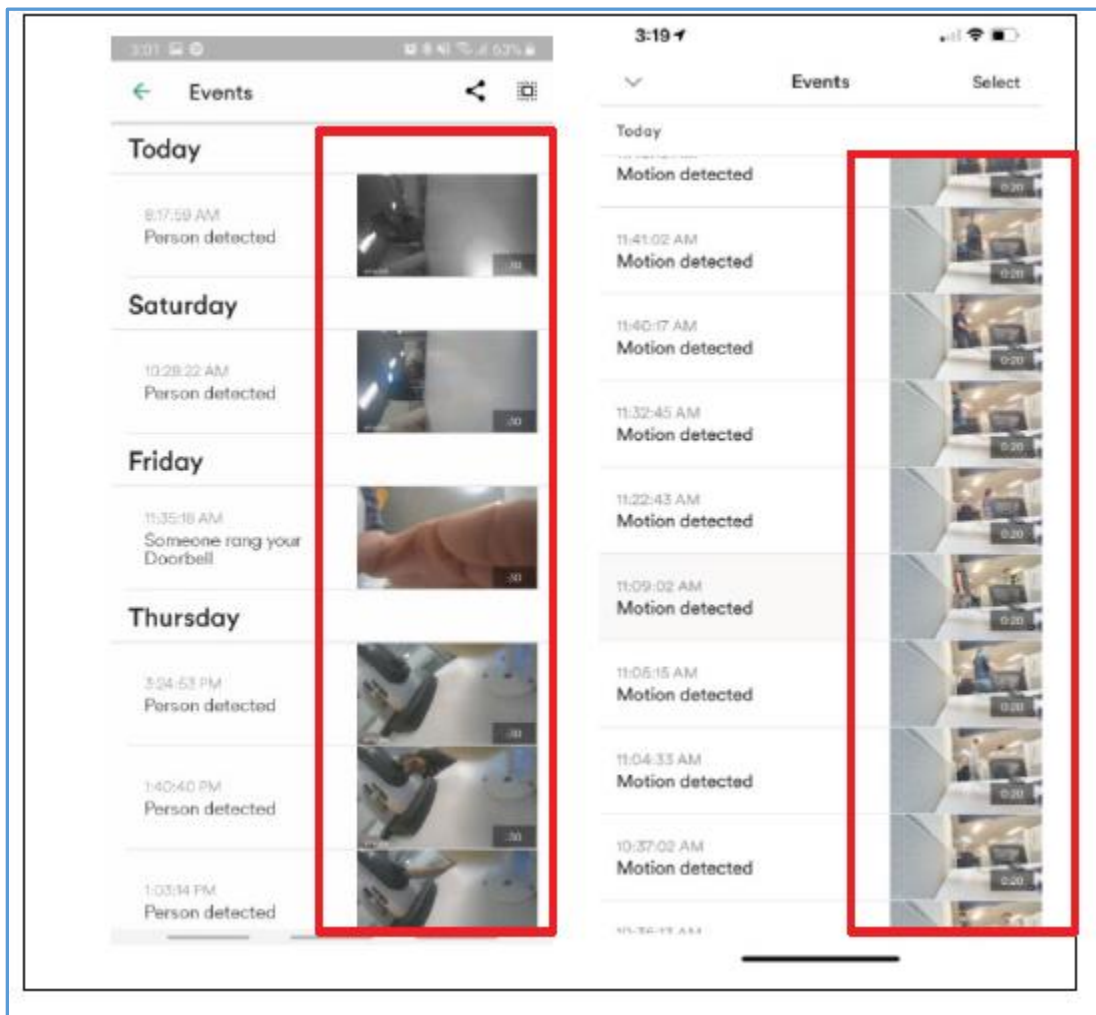
6. Use the touch screen to adjust the size and placement of the motion detection area. You can also add additional areas. Use the sliders on the right to adjust the sensitivity and target area setting

- **Motion Detection Box:** This is the area in which your camera looks for motion. For optimum results, it is best to have a smaller box that is located where someone is most likely to pass through. The larger the box is, the more likely you are to get false motion detection. For example, if your camera is watching a hallway, your motion detection box only needs to cover a small box where people will pass through. You can also add more than one box for the indoor camera to capture motion. It is best not to place your motion detection boxes on windows, lights, plants or fans. (Lights can cause false motion detection) This allows you to avoid capturing videos of the tree outside the window or the fan moving.
- **Target Size:** The target size is the percent of your motion detection box that needs to be displaced or change to trigger motion detection. For example, if you have a small detection box that someone will walk through, you may want to set the target size to 50% or more to ensure you catch a person and not a cat walking by.
- **Sensitivity:** Motion detection sensitivity is how sensitive your camera is to movement. The sensitivity is best left around 85% for optimum results.

<https://support.vivint.com/s/article/Vivint-Ping-Camera-Adjust-Video-Motion-Detection>

85. Vivint forms recordings (i.e., “a video summary including fewer than all of the image frames”), wherein the recordings include at least those frames (i.e., “identified subset of image frames”) that contain the moving person and have the

desired object placement and sensitivity.



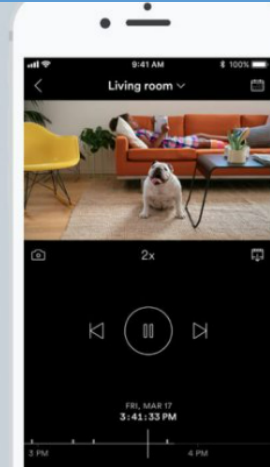
<https://support.vivint.com/s/article/Playback-How-To-Find-Events>

Event markers make it easy to find moments

Vivint Playback makes searching easy by inserting event markers in your footage. Every time motion is detected, a door is unlocked, or a window is opened it is flagged. It makes it easy to jump to important moments without watching hours of video.

A photograph of a woman with dark hair tied up, wearing a light pink t-shirt and a dark skirt. She is standing in a living room, looking down at a tablet computer she is holding. The background shows a bookshelf filled with books and decorative items.

Vivint Playback automatically inserts markers whenever motion is detected, making it easy to search your timeline.



<https://vivintsmarthomesystems.com/product/vivint-playback-dvr/>

86. Vivint stores the recordings along with relevant data (i.e., “a representation of the video summary”) in a searchable store location on the Vivint Smart Drive (i.e., “processor-accessible storage memory”) and in the cloud.

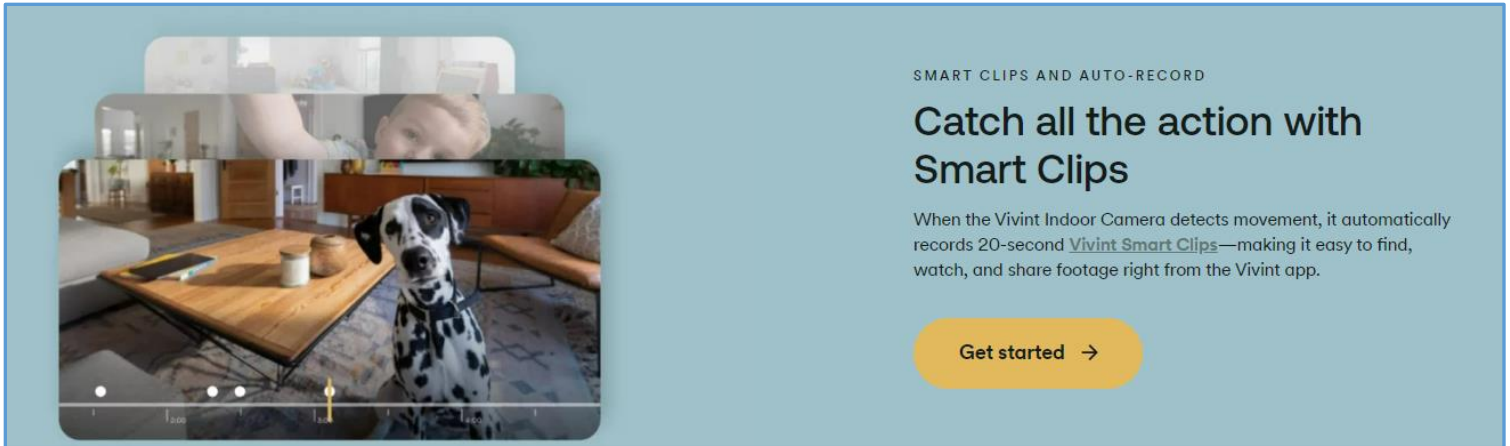
24/7 VIDEO RECORDING

Recording that never stops

The Vivint Smart Drive stores every minute of footage from your indoor, outdoor, and doorbell camera for 30 days. Review recordings from up to four of your video cameras right from the Vivint app or Smart Hub with security DVR. Since Vivint cameras feature night vision and capture sharp audio, watching your recordings gives you a clear idea of what's happening in and around your home, day and night.

How to buy →

<https://www.vivint.com/products/video-recording>



SMART CLIPS AND AUTO-RECORD

Catch all the action with Smart Clips

When the Vivint Indoor Camera detects movement, it automatically records 20-second [Vivint Smart Clips](#)—making it easy to find, watch, and share footage right from the Vivint app.

Get started →

<https://www.vivint.com/products/ping>

87. Vivint has used and tested the Vivint Accused Products in the United States.

88. Vivint thus has infringed and continues to infringe the '345 Patent.

89. Vivint's activities were without authority of license under the '345 Patent.

90. Vivint created the Vivint Application Demo that is available on the Vivint Application.

91. Vivint's users, customers, agents and/or other third parties (collectively, "third-party infringers") infringed and continue to infringe the asserted claims including under 35 U.S.C. § 271(a) by using the Vivint Accused Products according to their normal and intended use.

92. Vivint has, since at least as early as July 7, 2021, known or been willfully blind to the fact that the third-party infringers' use of the Vivint Accused

Products directly infringes the '345 Patent.

93. Vivint's knowledge of the '345 Patent, which covers operating the Vivint Accused Products in their intended manner such that all limitations of the asserted claims of the '345 Patent are met, extends to its knowledge that the third-party infringers' use of the Vivint Accused Products directly infringes the '345 Patent, or, at the very least, rendered Vivint willfully blind to such infringement.

94. With knowledge of or willful blindness to the fact that the third-party infringers' use of the Vivint Accused Products in their intended manner such that all limitations of the asserted claims of the '345 Patent are met directly infringes the '345 Patent, Vivint has actively encouraged the third-party infringers to directly infringe the '345 Patent by making, using, testing, selling, offering for sale, importing and/or licensing the accused products by, for example: marketing Vivint's playback capabilities to the third-party infringers; supporting and managing the third-party infringers' use of the Vivint playback functions; and providing technical assistance to the third-party infringers during their continued use of the Vivint Accused Products such as by, for example, publishing instructional information on the Vivint websites directing and encouraging third-party infringers how to make and use the playback features of the Vivint Accused Products.

95. Vivint induces the third-party infringers to infringe the asserted claims

of the '345 Patent by directing or encouraging them to operate the Vivint Accused Products which satisfy all limitations of the asserted claims of the '345 Patent. For example, Vivint advertises and promotes the playback features of the Vivint Accused Products and encourages the third-party infringers to operate them in an infringing manner. Vivint further provides technical assistance directing and instructing third parties how to operate the Vivint Accused Products by, for example, publishing instructional materials, how-to guides, troubleshooting, user guides, and support forums.

96. In response, the third-party infringers acquire and operate the Vivint Accused Products in an infringing manner.

97. Vivint specifically intends to induce, and did induce, the third-party infringers to infringe the asserted claims of the '345 Patent, and Vivint knew of or was willfully blind to such infringement. Vivint advised, encouraged, and/or aided the third-party infringers to engage in direct infringement, including through its encouragement, advice, and assistance to the third-party infringers to use the playback features of the Vivint Accused Products. Having known or been willfully blind to the fact that the third-party infringers' use of the Vivint Accused Products in their intended manner such that all limitations of asserted claims of the '345 Patent were met directly infringed the '345 Patent, Vivint, upon information and belief, actively encouraged and induced the third-party infringers to directly

infringe the '345 Patent by making, using, testing, selling, offering for sale, importing and/or licensing said Vivint Accused Products, and by, for example: marketing the Vivint Accused Products to the third-party infringers; supporting and managing the third-party infringers' use of the Vivint Accused Products; and providing technical assistance to the third-party infringers during their continued use of the Vivint Accused Products by, for example, publishing the following instructional information directing third-party infringers how to make and use the Vivint Accused Products to infringe the asserted claims of the '345 Patent:

- <https://support.vivint.com/s/article/Playback-How-To-Find-Events>;
- <https://support.vivint.com/s/article/Playback-How-To-Turn-On-and-Off>;
- <https://support.vivint.com/s/article/Outdoor-Camera-Pro-How-To-Set-Smart-Sentry-Schedule>;
- <https://support.vivint.com/s/article/Doorbell-Camera-Pro-Set-Up-Detection-Zone>;
- <https://support.vivint.com/s/article/Outdoor-Camera-Pro-Setup-in-App>;
- <https://support.vivint.com/s/article/Outdoor-Camera-Pro-Optimize-Detection-Settings>;
- Vivint Application Demo; and

- <https://www.youtube.com/watch?v=Ay1hCt9Beys>, among others.

98. Based upon the foregoing facts, among other things, Vivint has induced and continues to induce infringement of the asserted claims of the '345 Patent under 35 U.S.C. § 271(b).

99. Vivint has sold, provided and/or licensed to the third-party infringers and continues to sell, provide and/or license the Vivint Accused Products that are especially made and adapted—and specifically intended by Vivint—to be used as components and material parts of the inventions covered by the '345 Patent. For example, the Vivint Accused Products include playback and cataloging features identified above which the third-party infringers used in a manner such that all limitations of the asserted claims are met, and without which the third-party infringers would have been unable to use and avail themselves of the intended functionality of the accused products.

100. Vivint also knew that the accused products are operated in a manner that practices each asserted claim of the '345 Patent.

101. The playback features are specially made and adapted to infringe the asserted claims of the '345 Patent.

102. The playback features are not a staple article or commodity of commerce, and, because the functionality was designed to work with the Vivint Accused Products solely in a manner that is covered by the '345 Patent, it has no

substantial non-infringing use. At least by July 7, 2021, based upon the foregoing facts, Vivint knew of or was willfully blind to the fact that such functionality was especially made and adapted for—and was in fact used in—the accused products in a manner that is covered by the '345 Patent.

103. Based upon the foregoing facts, among other things, Vivint has contributorily infringed and continues to contributorily infringe the asserted claims of the '345 Patent under 35 U.S.C. § 271(c).

104. Upon information and belief, Vivint's acts of infringement of the '345 Patent continue since notice and since this complaint was filed and are, therefore, carried out with knowledge of the asserted claims of the '345 Patent and how the Vivint Accused Products infringe them. Rather than take a license to the '345 Patent, Vivint's ongoing infringing conduct reflects a business decision to “efficiently infringe” the asserted claims and in doing so constitutes willful infringement under the standard of *Halo Elecs., Inc. v. Pulse Elecs., Inc.*, 136 S. Ct. 1923 (2016).

105. Vivint's acts of direct and indirect infringement have caused and continue to cause damage to MPV for which MPV is entitled to recover damages sustained as a result of Vivint's infringing acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court, pursuant to 35 U.S.C. § 284.

**COUNT 2
(INFRINGEMENT OF U.S. PATENT NO. 7,730,036)**

106. MPV realleges and incorporates by reference the allegations set forth above as if restated verbatim here.

107. MPV is the owner, by assignment, of U.S. Patent No. 7,730,036 (Exhibit B).

108. As the owner of the '036 Patent, MPV holds all substantial rights in and under the '036 Patent, including the right to grant licenses, exclude others, and to enforce, sue, and recover damages for past and future infringement.

109. The '036 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code after a full and fair examination.

110. MPV alleges that Vivint has infringed, and continues to infringe, the '036 Patent.

111. The '036 Patent was issued by the United States Patent and Trademark Office on June 1, 2010. *See* Exhibit B.

112. The '036 Patent generally relates to the field of digital image processing, and more particularly, to event-based organization of digital images, video and audio files.

113. Vivint has directly infringed at least claims 1, 2 and 3 of the '036 Patent by using (including its own testing), making, selling, offering for sale,

licensing, and/or importing into the United States without authority the Vivint Home Security, Vivint Smart Home products that include playback features that are utilized with Vivint monitoring services, Vivint Camera Products, Smart Home App, Vivint Hub and/or Smart Drive (“Vivint Accused Products”).

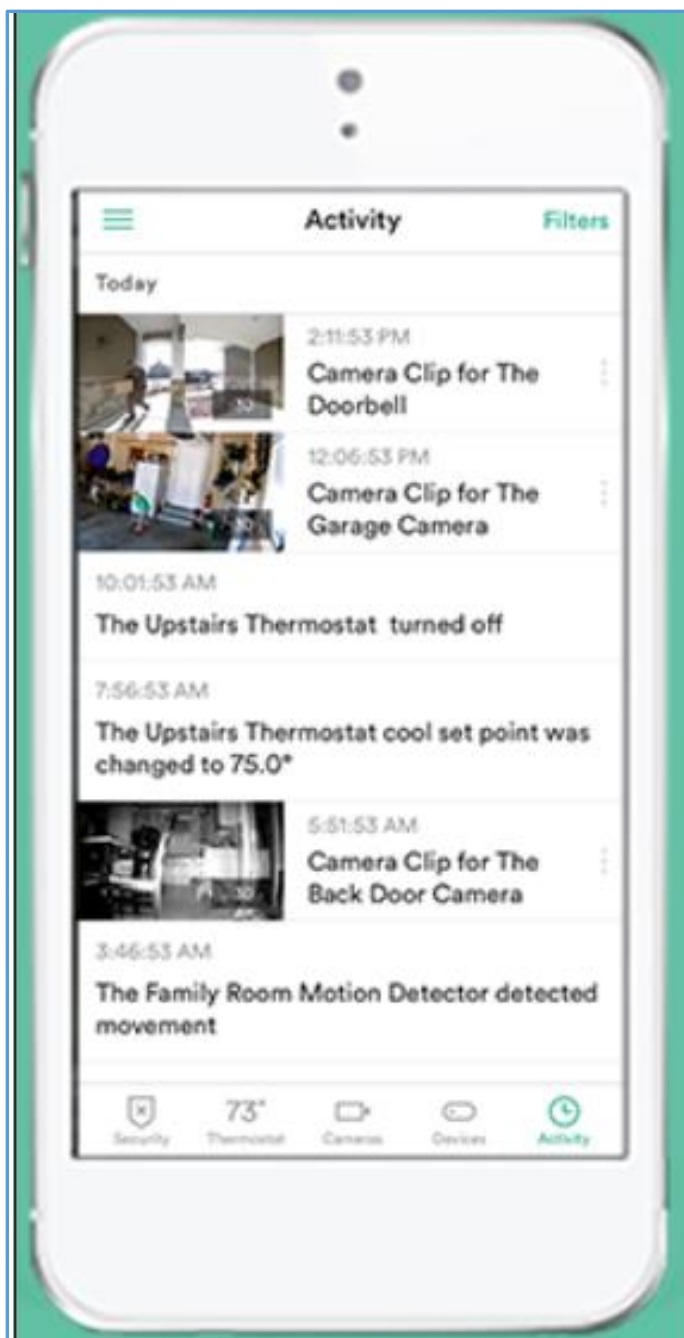
114. Without limitation, sale, importation and/or use of the Vivint Accused Products has comprised the steps noted below.

115. Claim 1 of the '036 Patent covers a method implemented at least in part by a computer system, the method for organizing digital content records and comprising the steps of: receiving a plurality of digital content records, at least some of said digital content records having associated metadata identifying at least a time-date of capture, a location of capture, or a time-date of capture and a location of capture, wherein at least one of the digital content records has associated metadata identifying a time-date of capture, and at least one of the digital content records has associated metadata identifying a location of capture; defining an event at least by identifying a set of event boundaries associated at least with a span of time and a geographic area; identifying digital content records (“event content-records”) of the plurality of digital content records to be associated with the event, at least some of the digital content records being identified as event-content records because they meet metadata conditions, wherein the metadata conditions include that the time-date-of-capture metadata and location-

of-capture metadata of the corresponding digital content records identify a time-of-capture and a location-of-capture within the span of time and the geographic area, respectively; associating at least some of the event content-records (“associated event-content-records”) with the event; storing information identifying the association of at least some of the event content-records with the event in a computer-accessible memory system; and wherein the location-of-capture metadata identifies a network address of a network access point, wherein the geographic area event boundary is defined at least in part by a particular network address, and wherein the metadata conditions include that the network address corresponds to the particular network address.

116. The Vivint Accused Products use a computer system to organize digital content and records (videos) and organize them according to event rules and camera metadata information.

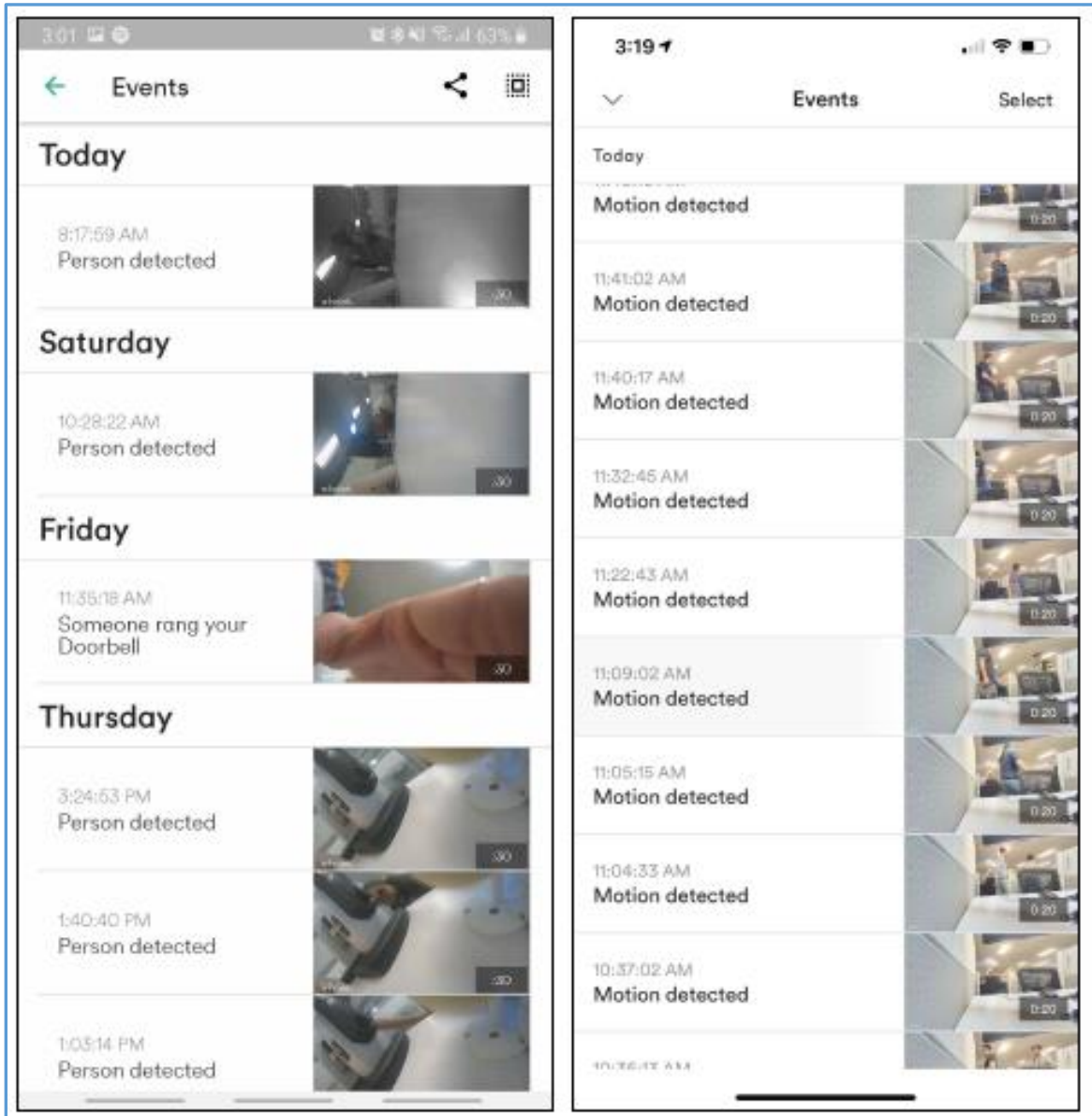
117. The Vivint Accused Products upload saved captured images to the Vivint cloud server or Vivint Smart Drive, organizing them according to rules and sensor metadata information.



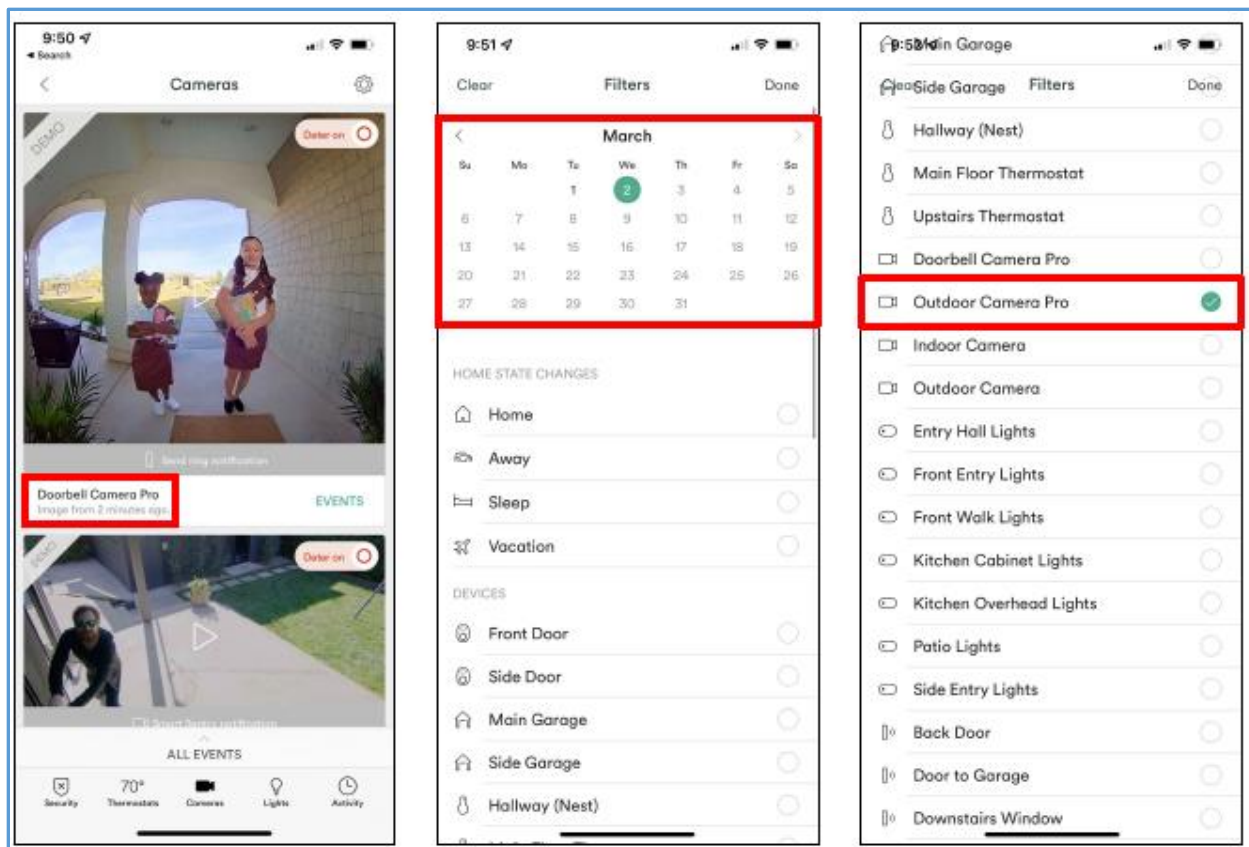
<https://support.vivint.com/s/article/Smart-Home-App-Access-your-System-History>

118. Vivint receives recorded videos (i.e., “receiving a plurality of digital content records”) from the Vivint Cameras. The videos recorded by the Vivint

Cameras have associated metadata which identify a time-date of capture and IP address, identifying the location of recorded videos (i.e. “metadata identifying a location of a capture”).

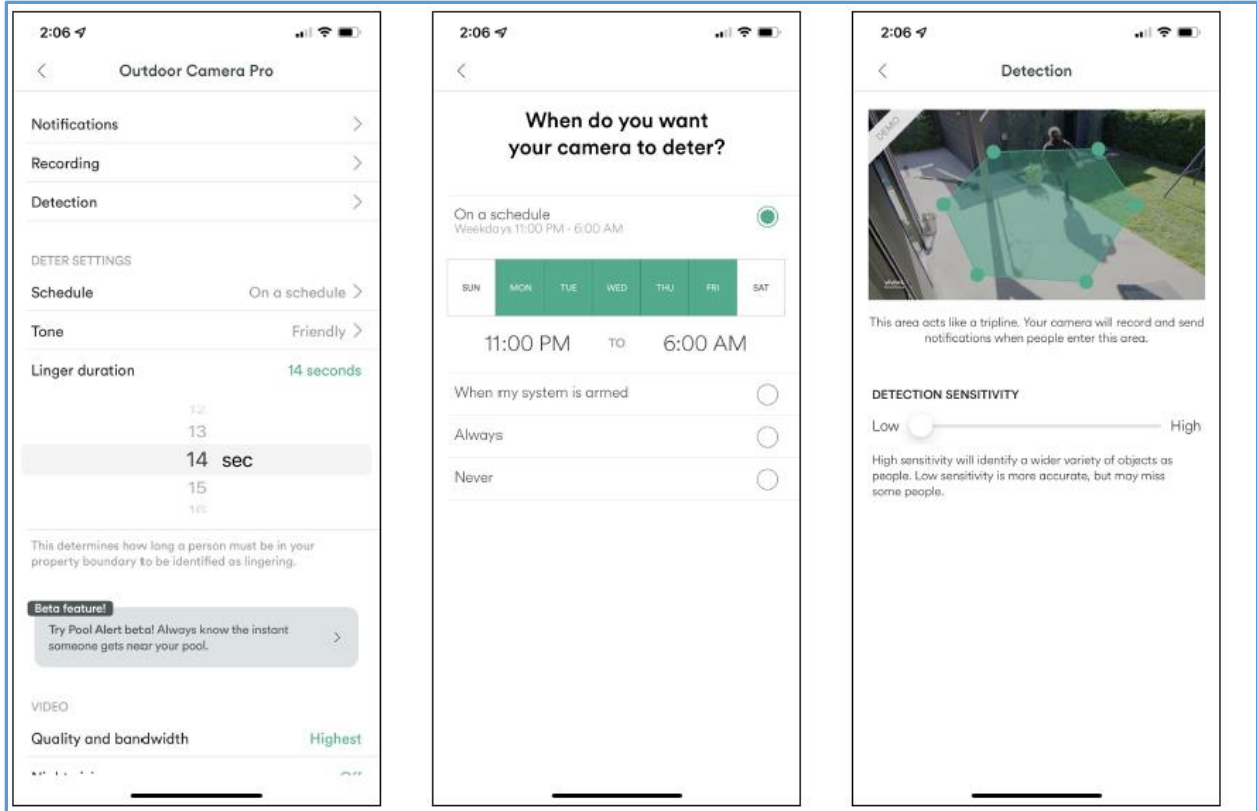


<https://support.vivint.com/s/article/Playback-How-To-Find-Events>



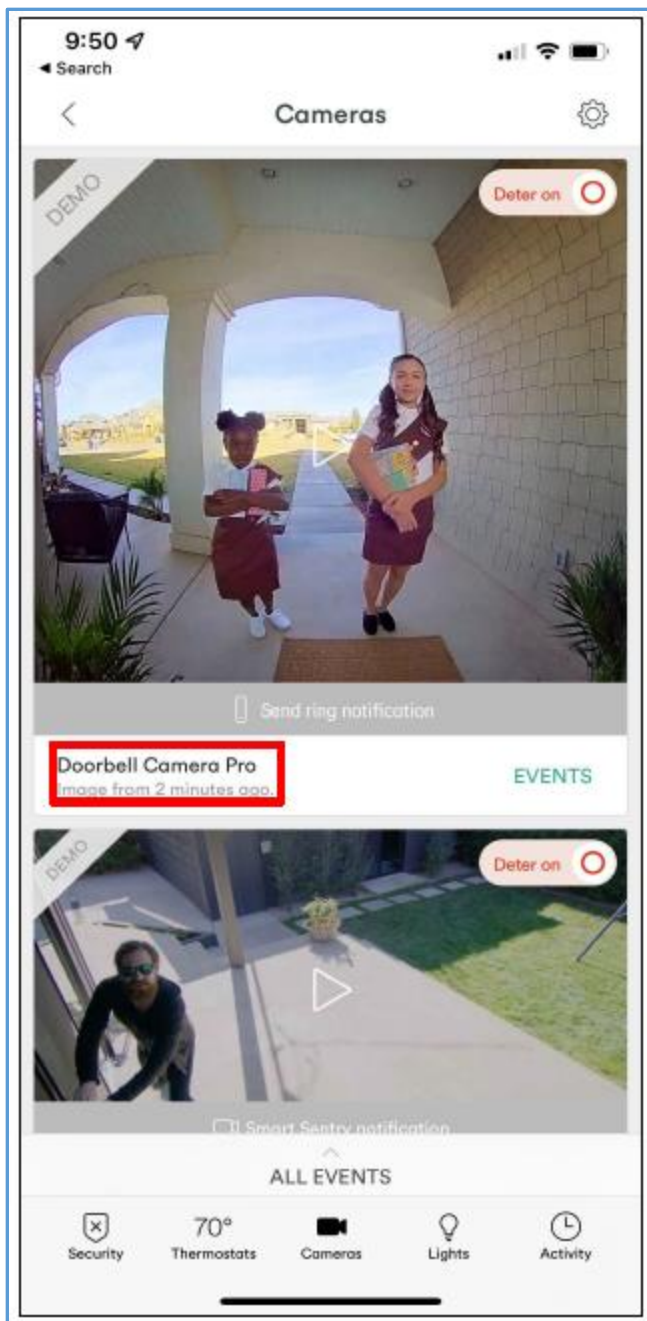
Vivint Application Demo

119. The Vivint Home Security and Smart Home Products allow creation of event rules based on, e.g., “linger detection” (i.e., “defining an event at least by identifying a set of event boundaries”). Vivint defines a deter event by identifying linger duration and motion sensitivity parameters (i.e., “a set of event boundaries”) associated with a capture time frame and detection zone (i.e., “span of time and a geographic area”).



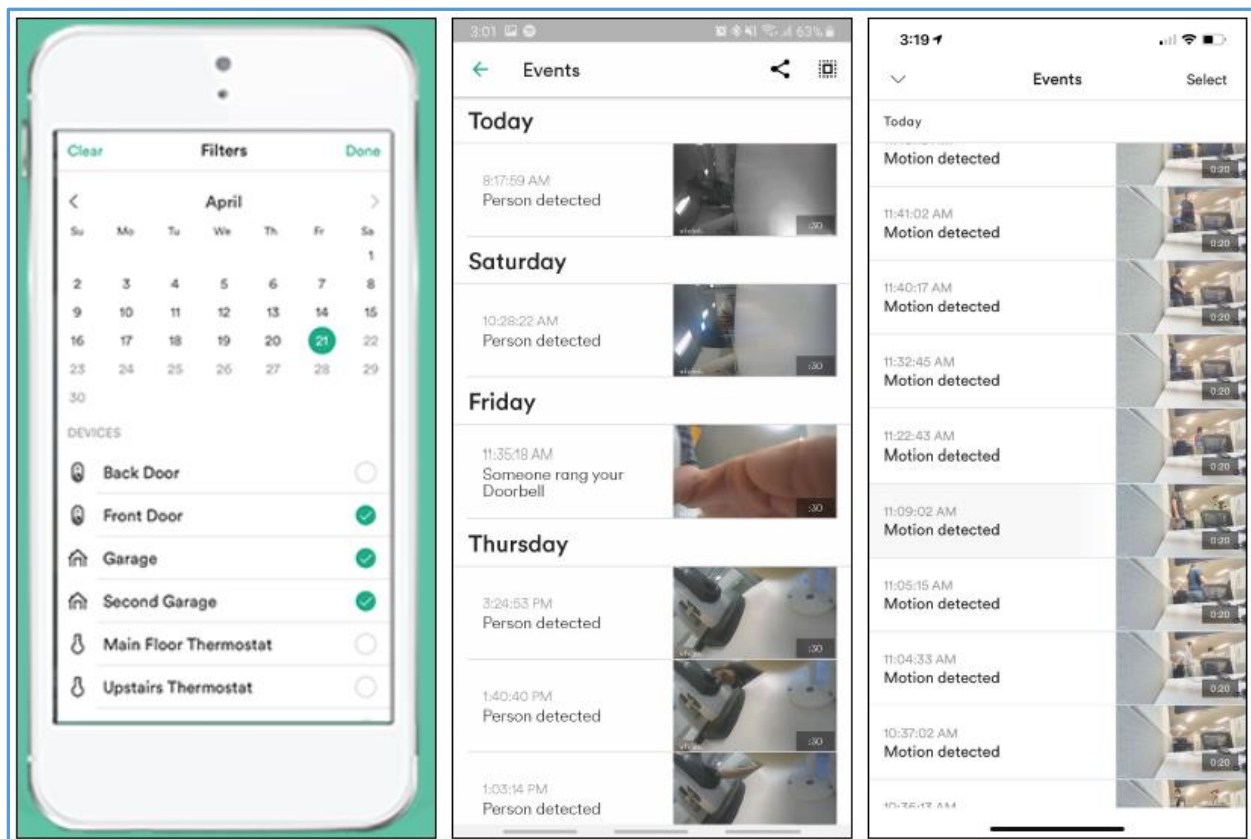
Vivint Application Demo

120. Vivint identifies recorded videos of a linger event via the specified deter schedule and detection zone (i.e., “identifying digital content records...associated with the event”), wherein the metadata conditions include a date-time and particular location of recorded videos. Vivint associates the recorded triggered linger event with the video. The Vivint Accused Products associate event-content records (video) with a particular event when the contents of the video meet user specified event conditions (e.g. associates the recorded triggered linger event with the video). Vivint identifies video based on time and location. Users can filter videos based on associated metadata.



Vivint Application Demo

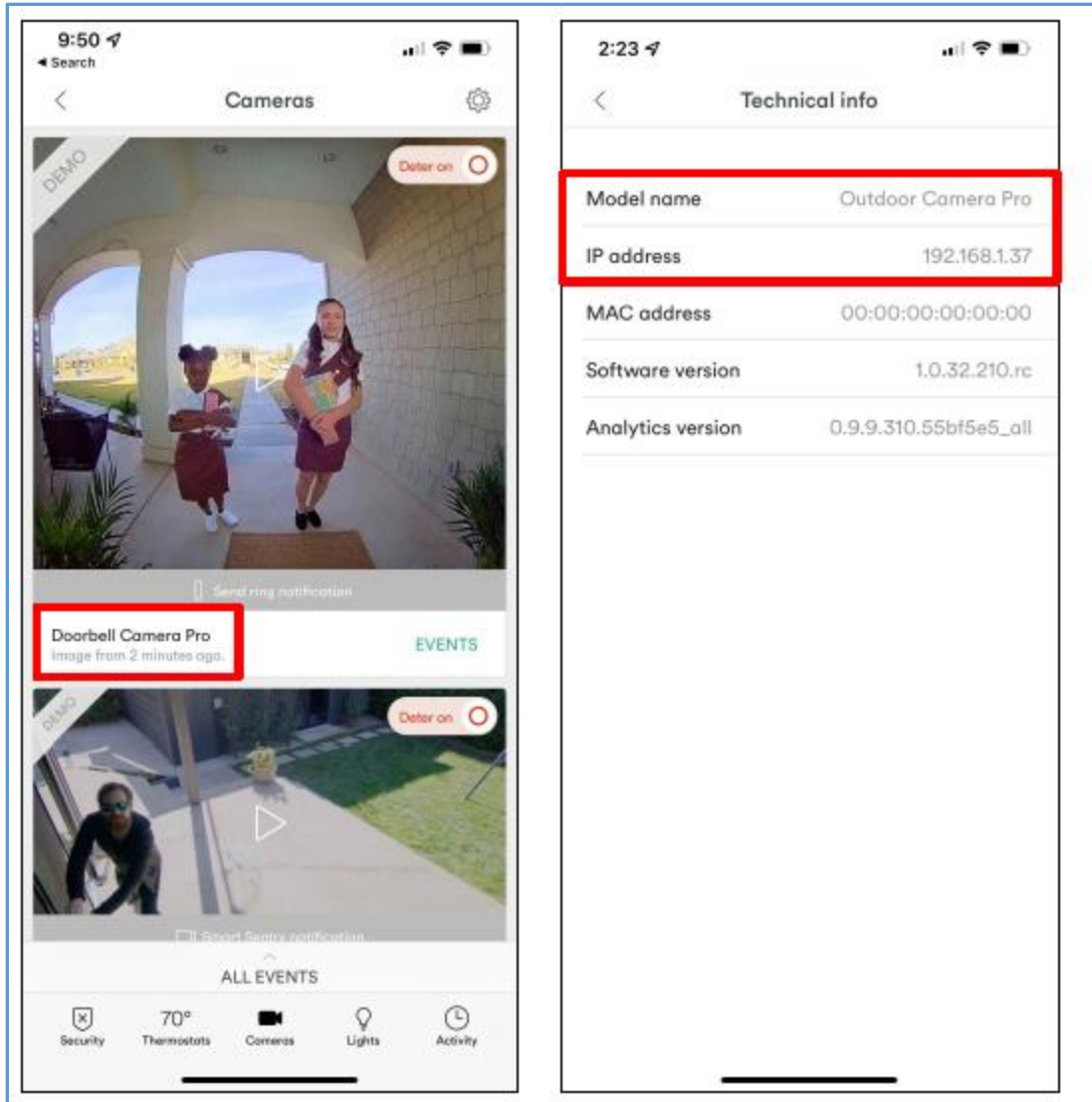
121. The Vivint Accused Products store information identifying the association of motion detection in the video on Vivint servers (e.g. Smart Drive, cloud), accessible from internet-enabled devices.



<https://support.vivint.com/s/article/Smart-Home-App-Access-your-System-History>

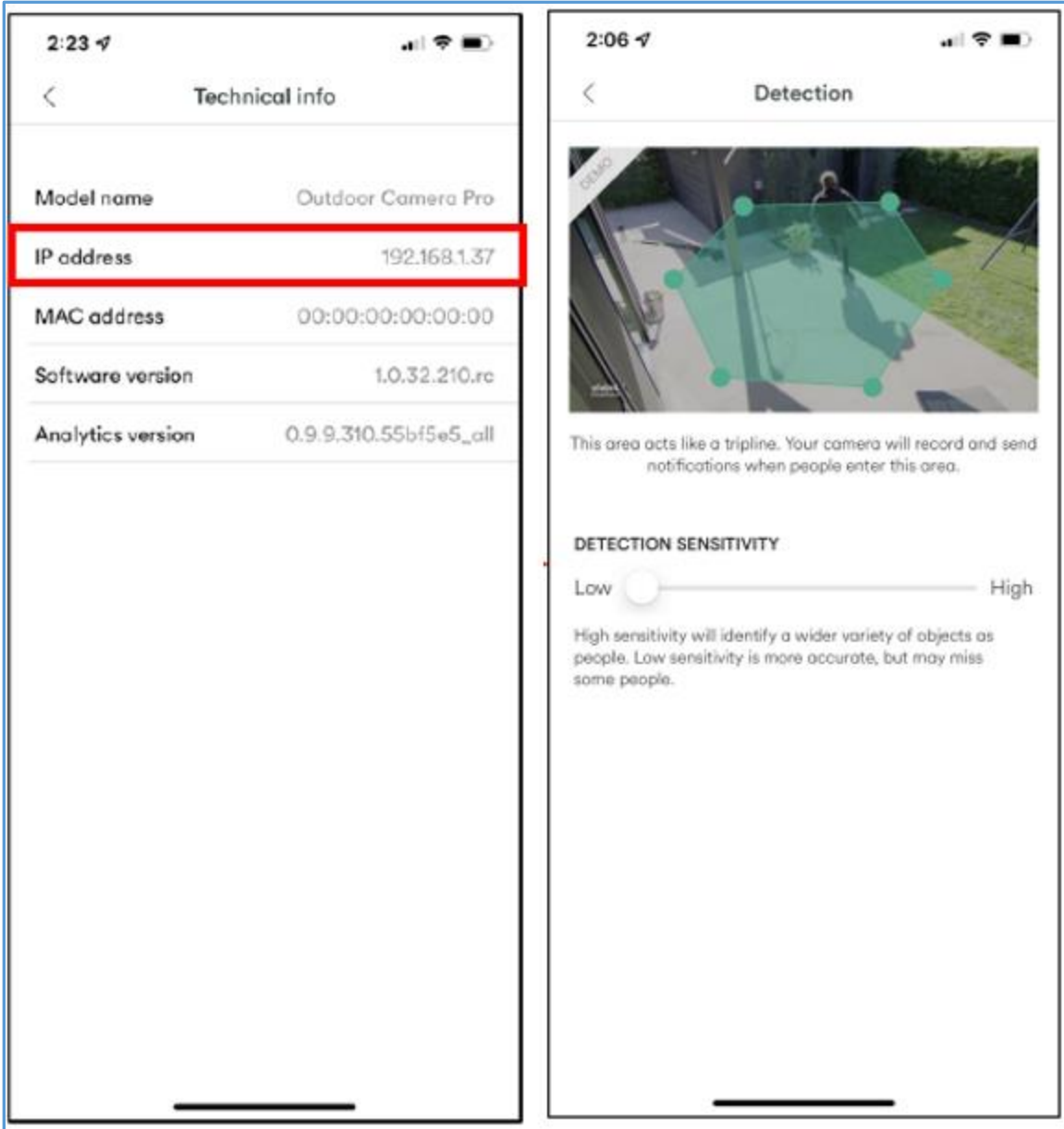
<https://support.vivint.com/s/article/Playback-How-To-Find-Events>

122. Vivint metadata identifies the IP address of the camera (i.e. “network address of a network access point”).



Vivint Application Demo

123. Vivint’s detection map associates user defined event rules with specified cameras using their IP addresses. Unique IP addresses, which specify specific cameras and camera locations, are associated with user specified rules.



Vivint Application Demo

124. Vivint describes its Vivint Home Security and Smart Home Products and its playback features on its website at <https://www.vivint.com/ppc/home>; <https://support.vivint.com/s>; and <https://support.vivint.com/s/article/Playback-How-To-Find-Events> (“Vivint Product Overview”).

125. Vivint published the Vivint Product Overview that accurately describes the operation of the Vivint Accused Products.

126. Vivint published the Vivint Product Overview that accurately describes the operation of the playback features of the Vivint Accused Products.

127. Vivint has used playback features of the Vivint Accused Products.

128. Vivint has tested the playback features of the Vivint Accused Products.

129. Vivint created the Vivint Application Demo that is available on the Vivint Application.

130. The Vivint Accused Products satisfy each and every element of each asserted claim of the '036 Patent either literally or under the doctrine of equivalents.

131. Vivint thus infringed at least claims 1, 2 and 3 of the '036 Patent by using (including its own testing) in the United States.

132. Vivint's activities were without authority of license under the '036 Patent.

133. Vivint's users, customers, agents and/or other third parties (collectively, "third-party infringers") infringed and continue to infringe, including under 35 U.S.C. § 271(a), at least claims 1, 2 and 3 of the '036 Patent by using the Vivint Accused Products.

134. Vivint has, since at least as early as the filing of the complaint, known or been willfully blind to the fact that the third-party infringers' use of Vivint Accused Products directly infringed the '036 Patent.

135. Vivint's knowledge of the '036 Patent, which covered operating the Vivint Accused Products in their intended manner such that all limitations of at least claims 1, 2 and 3 of the '036 Patent were met, made it known to Vivint that the third-party infringers' use of the Vivint Accused Products directly infringed the '036 Patent, or, at the very least, rendered Vivint willfully blind to such infringement.

136. Having known or been willfully blind to the fact that the third-party infringers' use of the Vivint Accused Products in their intended manner such that all limitations of at least claims 1, 2 and 3 of the '036 Patent were met directly infringed the '036 Patent, Vivint, upon information and belief, actively encouraged and induced the third-party infringers to directly infringe the '036 Patent by making, using, testing, selling, offering for sale, importing and/or licensing said Vivint Accused Products, and by, for example: marketing the Vivint Accused Products to the third-party infringers; supporting and managing the third-party infringers' use of the Vivint Accused Products; and providing technical assistance to the third-party infringers during their continued use of the Vivint Accused Products by, for example, publishing the following instructional information

directing third-party infringers how to make and use the Vivint Accused Products to infringe claims 1, 2 and 3 of the '036 Patent:

- <https://support.vivint.com/s/article/Playback-How-To-Find-Events>;
- <https://support.vivint.com/s/article/Playback-How-To-Turn-On-and-Off>;
- <https://support.vivint.com/s/article/Outdoor-Camera-Pro-How-To-Set-Smart-Sentry-Schedule>;
- <https://support.vivint.com/s/article/Doorbell-Camera-Pro-Set-Up-Detection-Zone>;
- <https://support.vivint.com/s/article/Outdoor-Camera-Pro-Setup-in-App>;
- <https://support.vivint.com/s/article/Outdoor-Camera-Pro-Optimize-Detection-Settings>;
- Vivint Application Demo; and
- <https://www.youtube.com/watch?v=Ay1hCt9Beys>, among others.

137. In response, the third-party infringers acquired and operated the Vivint Accused Products such that all limitations of claims 1, 2 and 3 of the '036 Patent were practiced.

138. Vivint specifically intended to induce, and did induce, the third-party infringers to infringe at least claims 1, 2 and 3 of the '036 Patent, and Vivint knew

of or was willfully blind to such infringement. Vivint advised, encouraged, and/or aided the third-party infringers to engage in direct infringement, including through its encouragement, advice, and assistance to the third-party infringers to use the Vivint Accused Products.

139. Based upon, among other things, the foregoing facts, Vivint induced infringement under 35 U.S.C. § 271(b) of at least claims 1, 2 and 3 of the '036 Patent.

140. Further, Vivint sold, provided and/or licensed to the third-party infringers Vivint Accused Products especially made and adapted—and specifically intended by Vivint—to be used as components and material parts of the inventions covered by the '036 Patent. For example, Vivint Accused Products were used by third-party infringers in a manner in which all limitations of at least claims 1, 2 and 3 of the '036 Patent were met, and without which the third-party infringers would have been unable to use and avail themselves of the Vivint Accused Products in their intended manner.

141. Upon information and belief, Vivint also knew that the Vivint Accused Products operated in a manner that satisfied all limitations of at least claims 1, 2 and 3 of the '036 Patent.

142. The playback feature of the Vivint Accused Products was specially made and adapted to infringe at least claims 1, 2 and 3 of the '036 Patent. Upon

information and belief, the playback feature of the Vivint Accused Products is not a staple article or commodity of commerce, and, because the functionality was designed to work with the Vivint Accused Products solely in a manner that is covered by the '036 Patent, it did not have a substantial non-infringing use. At least as early as the filing of the complaint, based on the foregoing facts, Vivint knew of or was willfully blind to the fact that such functionality was especially made and adapted for—and was in fact used in—the Vivint Accused Products in a manner that is covered by the '036 Patent.

143. Based on, among other things, the foregoing facts, Vivint contributorily infringed at least claims 1, 2 and 3 of the '036 Patent under 35 U.S.C. § 271(c).

144. Vivint's acts of infringement of the '036 Patent were willful and intentional under the standard of *Halo Elecs., Inc. v. Pulse Elecs., Inc.*, 136 S. Ct. 1923 (2016). Since at least the filing of the complaint, Vivint willfully infringed the '036 Patent by refusing to take a license. Instead of taking a license to the '036 Patent, Vivint made the business decision to “efficiently infringe” the '036 Patent. In doing so, Vivint willfully infringed the '036 Patent.

145. Vivint's acts of direct and indirect infringement caused damage to MPV and MPV is entitled to recover from Vivint the damages sustained by Plaintiff as a result of Vivint's infringing acts in an amount subject to proof at trial,

which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court, pursuant to 35 U.S.C. § 284.

**COUNT 3
(INFRINGEMENT OF U.S. PATENT NO. 8,024,311)**

146. MPV realleges and incorporates by reference the allegations set forth above, as if set forth verbatim herein.

147. MPV is the owner, by assignment, of U.S. Patent No. 8,024,311 (Exhibit C).

148. As the owner of the '311 Patent, MPV holds all substantial rights in and under the '311 Patent, including the right to grant licenses, exclude others, and to enforce, sue, and recover damages for past and future infringement.

149. The '311 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code after a full and fair examination.

150. MPV alleges that Vivint has infringed, and continues to infringe, the '311 Patent.

151. The '311 Patent was issued by the United States Patent and Trademark Office on September 20, 2011. *See* Exhibit C.

152. The '311 Patent is valid and enforceable.

153. Vivint has directly infringed at least claims 1 and 5 of the '311 Patent by using (including its own testing), making, selling, offering for sale, licensing,

and/or importing into the United States without authority the Vivint Home Security, Vivint Smart Home products that include playback features that are utilized with Vivint monitoring services, Vivint Camera Products, Smart Home App, Vivint Hub and/or Smart Drive (“Vivint Accused Products”).

154. The Vivint Accused Products satisfy each and every element of each asserted claim of the ’311 Patent either literally or under the doctrine of equivalents.

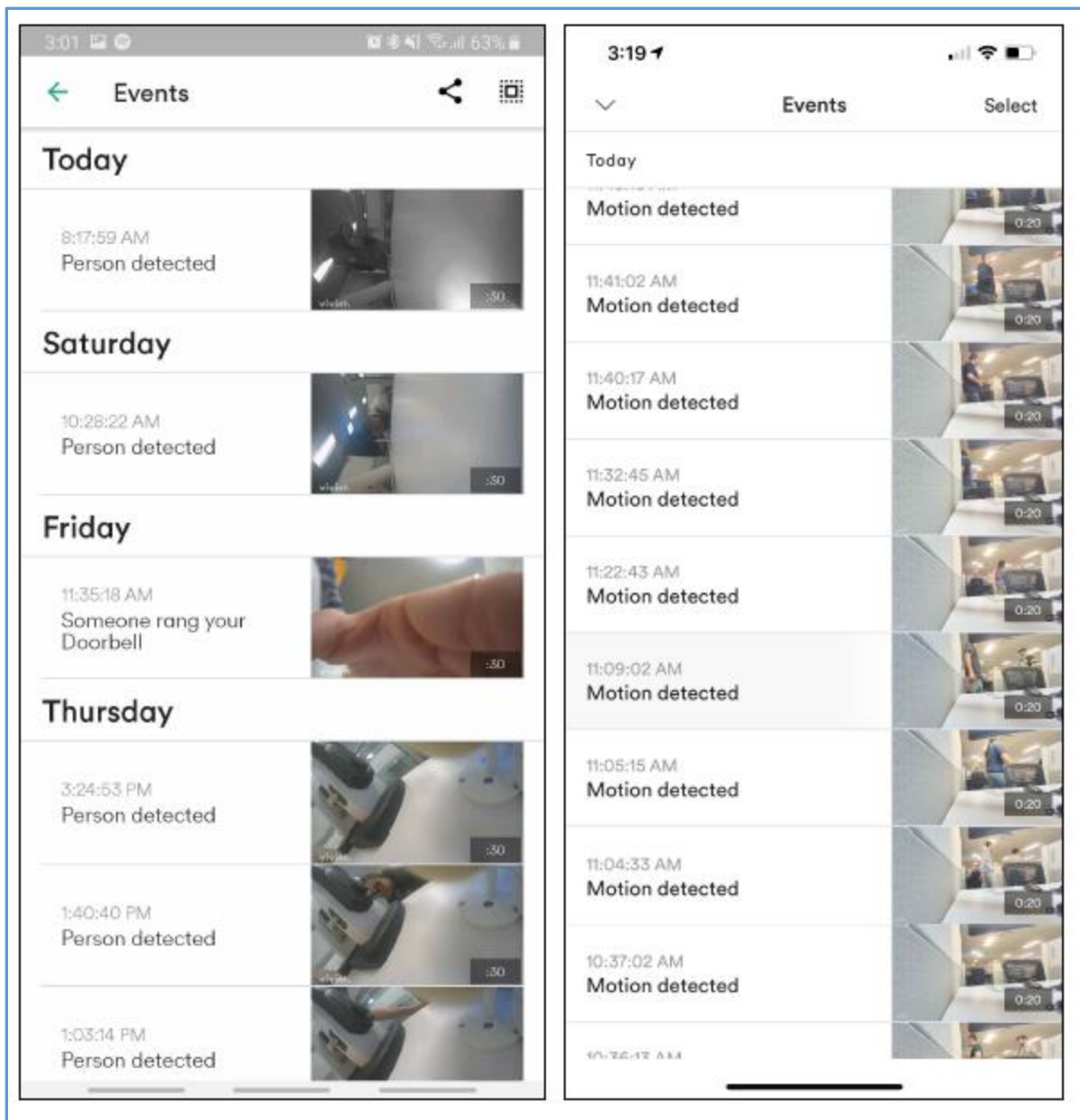
155. The ’311 Patent generally relates to the field of assisted annotation and retrieval of digital media assets, such as digital still images or video.

156. Claim 1 of the ’311 Patent covers a method implemented at least in part by a data processing system, the method for identifying media assets that are potentially relevant to contextual information and comprises the steps of “receiving, by the data processing system, the contextual information, wherein the received contextual information comprises a first set of contextual information and a second set of information, the second set being received after the first set; identifying a chosen event based at least upon an analysis of the contextual information; identifying a set of media assets based at least upon an analysis of the identified event wherein the step of identifying the set of media assets comprises: identifying a superset of media assets associated with the chosen event based at least upon an analysis of the first set of contextual information at a time when the

second set of contextual information has not yet therefore been received, the superset of media assets comprising more media assets than the set of media assets; and identifying the set of media assets from the superset of media assets based at least upon an analysis of the second set of contextual information; associating, in a processor-accessible memory system, at least some of the contextual information with the chosen event, or at least one asset in the set of media assets, or both the chosen event and at least one asset in the set of media assets.”

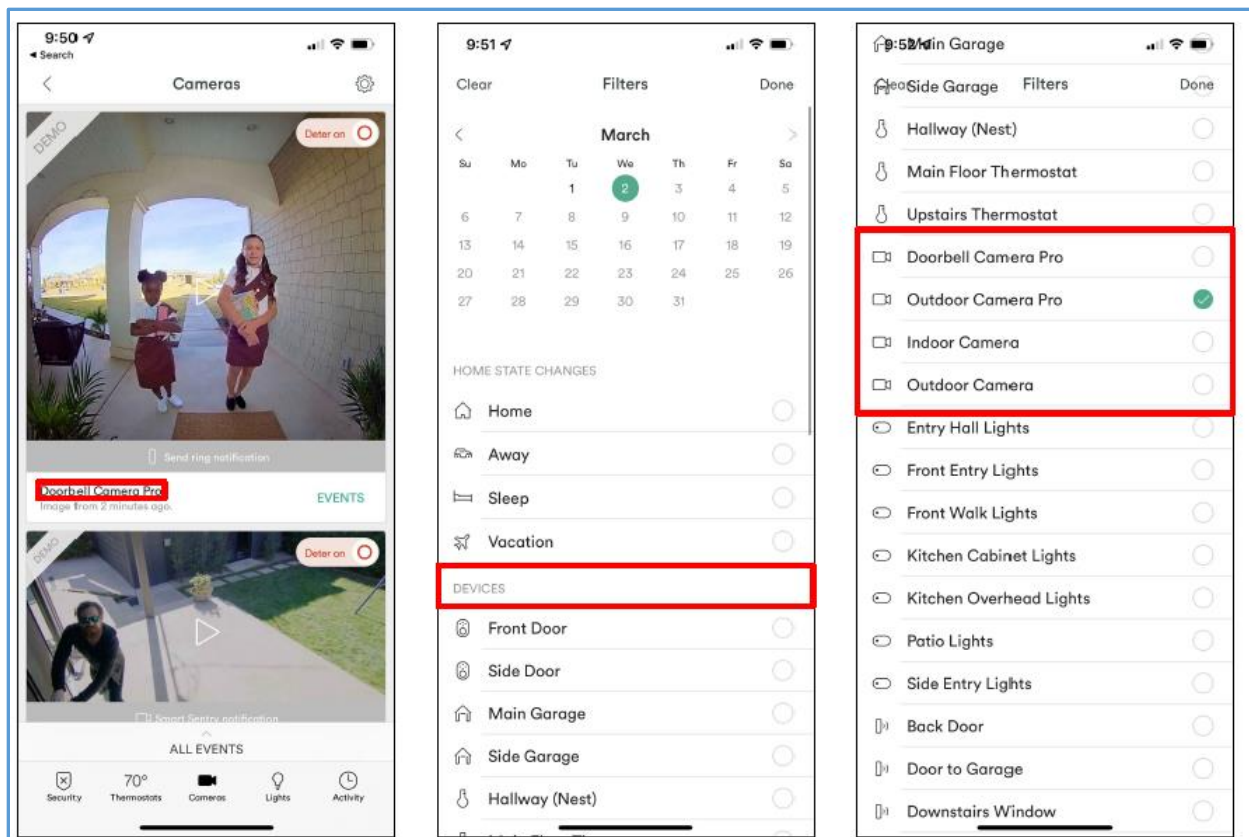
157. The Vivint Accused Products perform a method implemented at least in part by a data processing system, the method for identifying media assets that are potentially relevant to contextual information.

158. Vivint identifies media assets that are relevant to received contextual information.



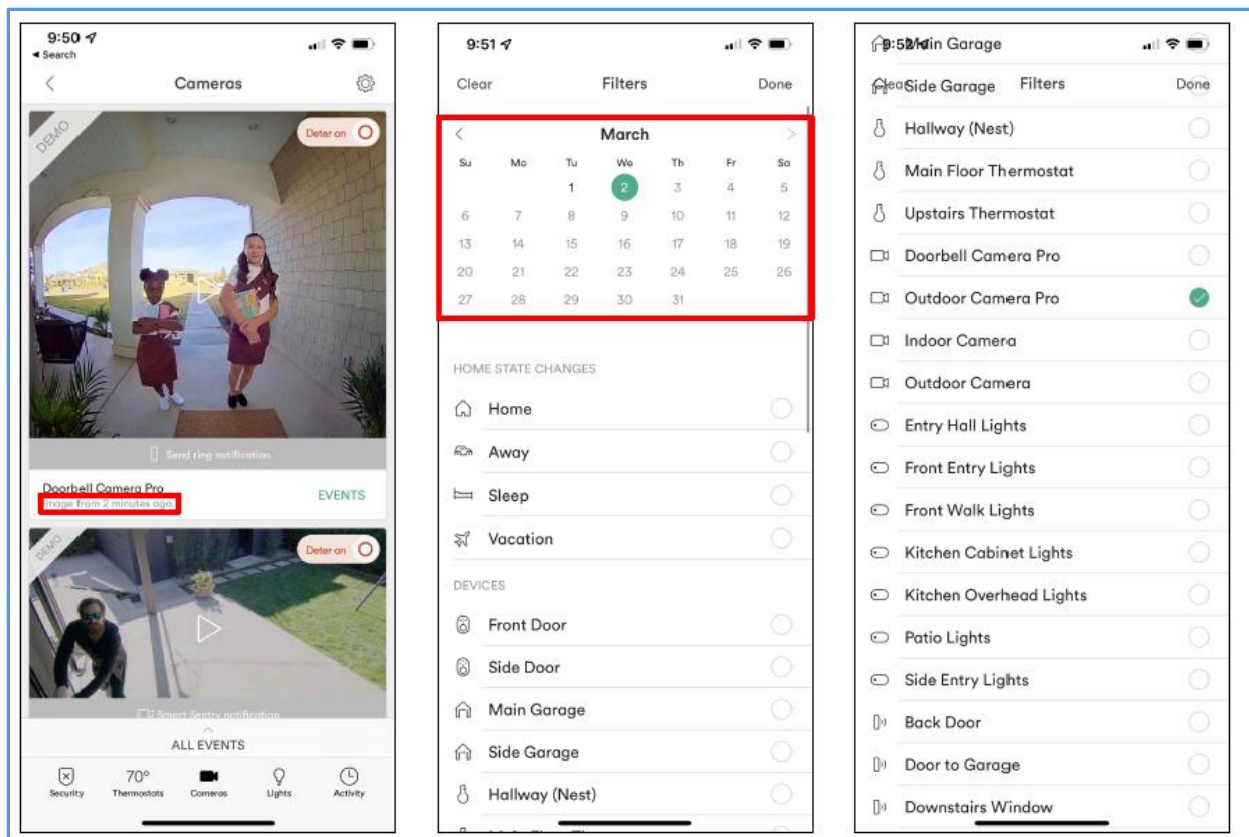
<https://support.vivint.com/s/article/Playback-How-To-Find-Events>

159. Vivint allows users to search captured video by, for example, specific devices (i.e. “contextual information”).



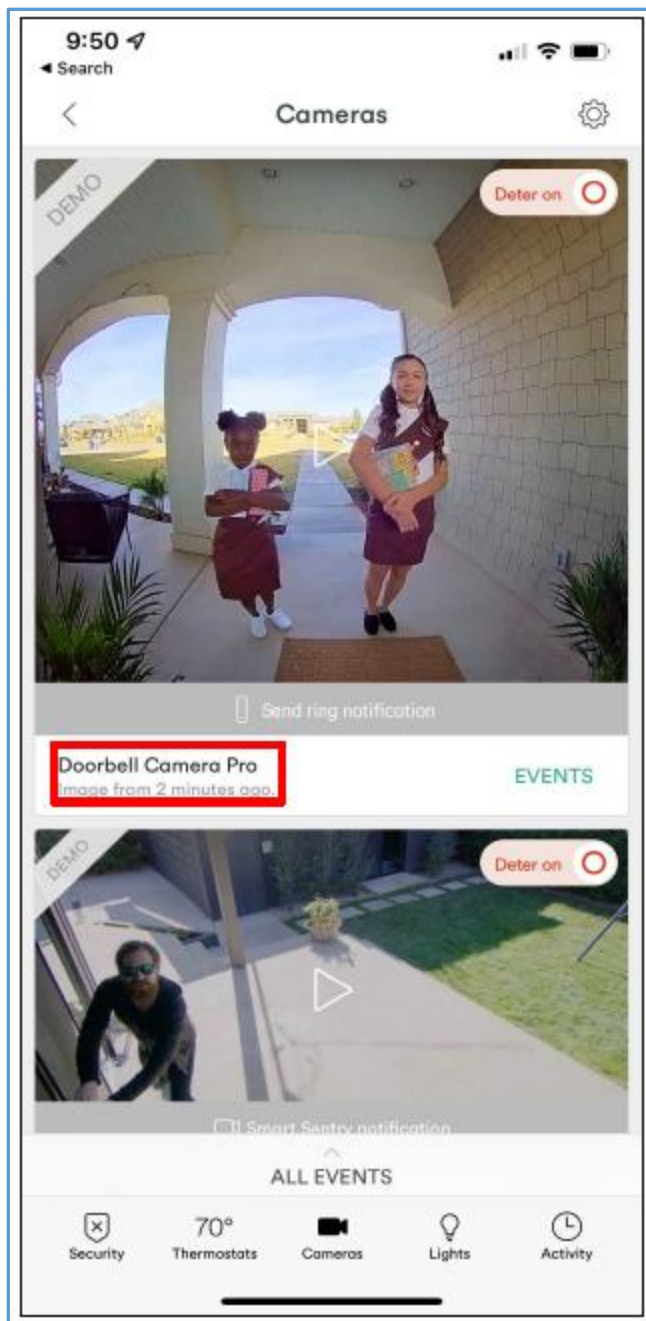
Vivint Application Demo

160. Vivint allows a user to further filter their search results by date (i.e., “a second set of information . . . received after the first set”).



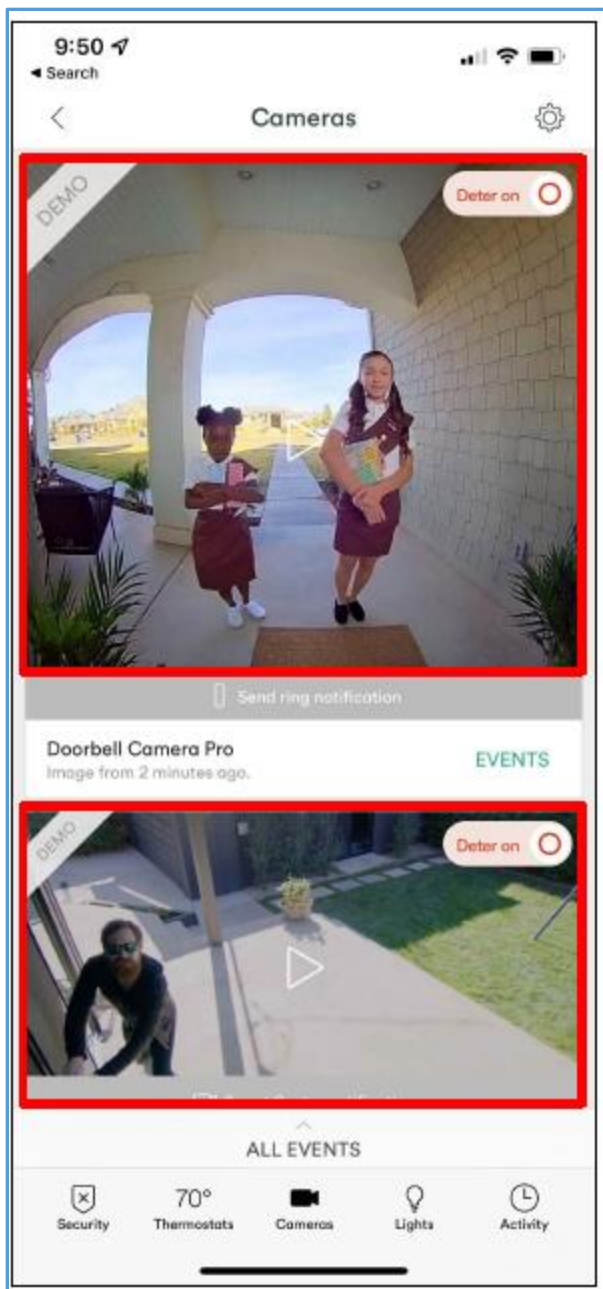
Vivint Application Demo

161. Based upon an analysis of the event and data filter, Vivint identifies a chosen event.



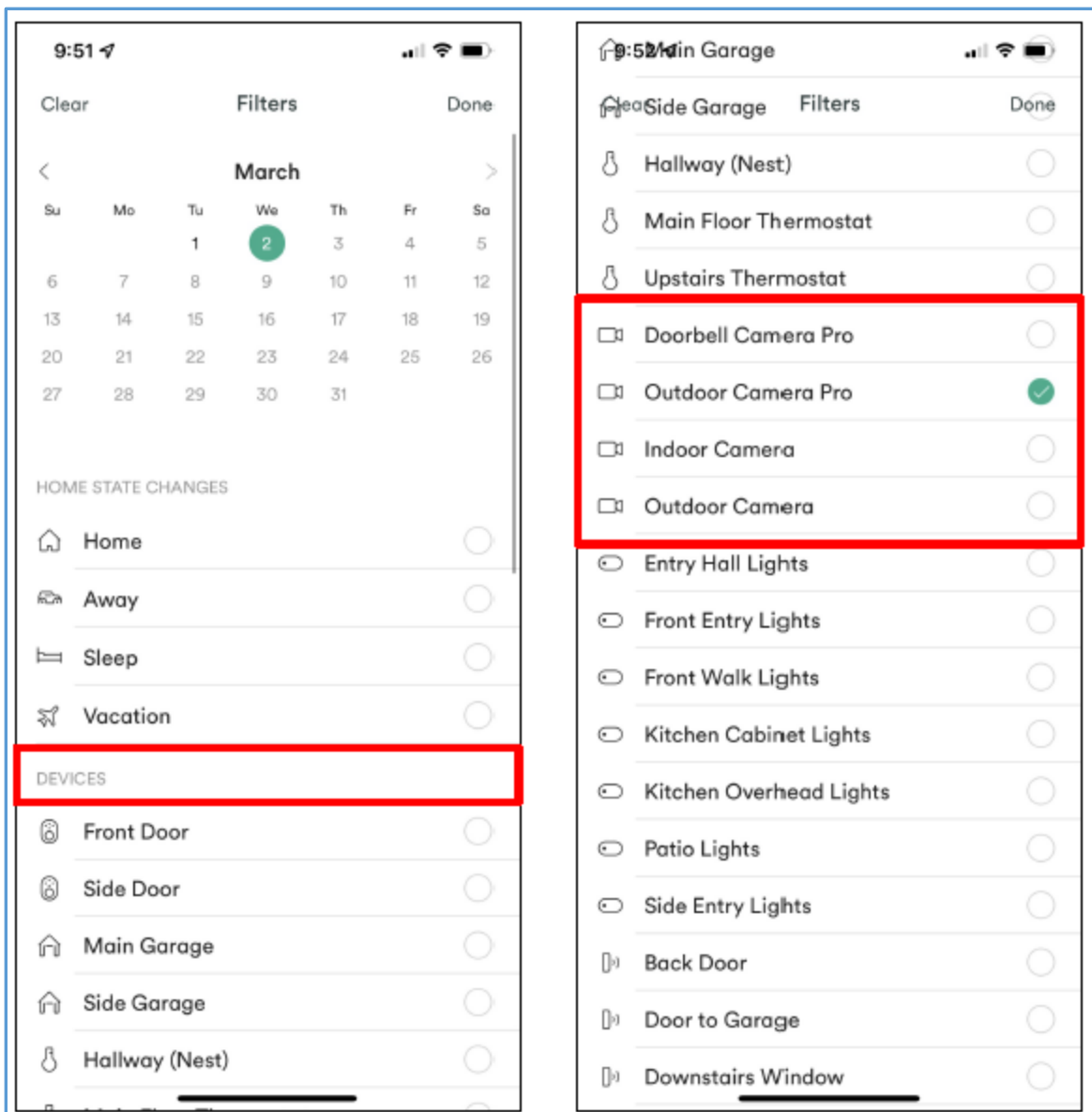
Vivint Application Demo

162. Vivint identifies and provides users with a set of captured recordings (i.e. “media assets”) based on the identified event.



Vivint Application Demo

163. Vivint identifies a superset of recordings based on the specified device (e.g., all recordings associated with the Outdoor Camera Pro).

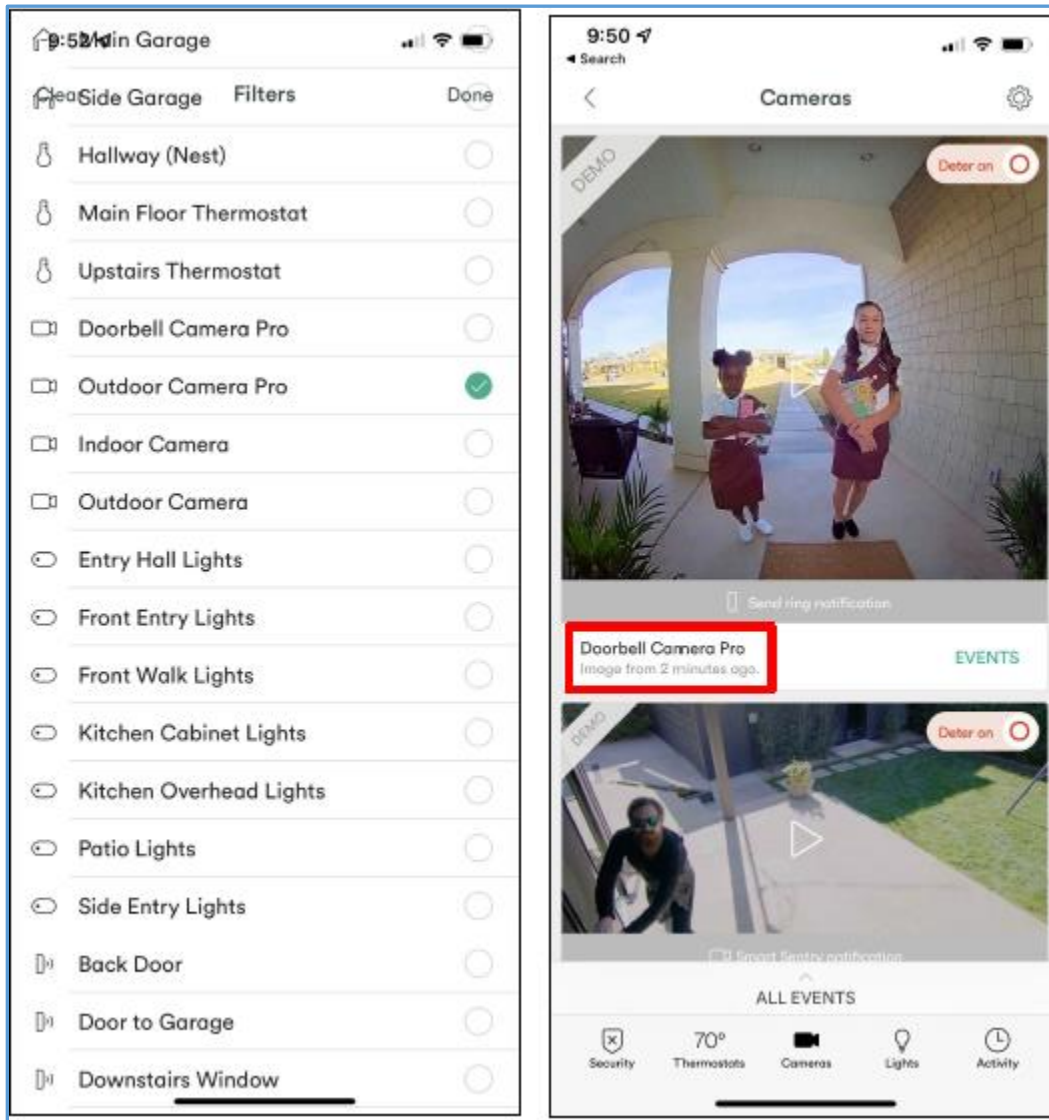


Vivint Application Demo

164. Vivint identifies the set of recordings based on the date filter (e.g., recordings associated with the Outdoor Camera Pro occurring on a certain date). For example, if a user specifies a specific date, the results narrow to “a set of media assets from the superset of media assets.”

165. Vivint associates the contextual information (e.g., camera name) with

at least one asset in the set of media assets.



Vivint Application Demo

166. Vivint has tested and used the Vivint Accused Products in the United States.

167. Vivint created the Vivint Application Demo that is available on the Vivint Application.

168. Vivint's activities were without authority of license under the '311 Patent.

169. Vivint's users, customers, agents and/or other third parties (collectively, "third-party infringers") infringed and continue to infringe, including under 35 U.S.C. § 271(a), at least claim 1 of the '311 Patent by using the Vivint Accused Products.

170. Vivint has, since at least as early as the filing of the Complaint, known or been willfully blind to the fact that the third-party infringers' use of the Vivint Accused Products directly infringed the '311 Patent.

171. Vivint's knowledge of the '311 Patent, which covered operating the Vivint Accused Products in their intended manner such that all limitations of at least claim 1 of the '311 Patent were met, made it known to Vivint that the third-party infringers' use of the Vivint Accused Products directly infringed the '311 Patent, or, at the very least, rendered Vivint willfully blind to such infringement.

172. Having known or been willfully blind to the fact that the third-party infringers' use of the Vivint Accused Products in their intended manner such that all limitations of at least claim 1 of the '311 Patent were met directly infringed the '311 Patent, Vivint, upon information and belief, actively encouraged and induced the third-party infringers to directly infringe the '311 Patent by making, using, testing, selling, offering for sale, importing and/or licensing said Vivint Accused

Products, and by, for example: marketing the Vivint Accused Products to the third-party infringers; supporting and managing the third-party infringers' use of the Vivint Accused Products; and providing technical assistance to the third-party infringers during their continued use of the Vivint Accused Products by, for example, publishing the following instructional information directing third-party infringers how to make and use the Vivint Accused Products to infringe claim 1 of the '311 Patent:

- <https://support.vivint.com/s/article/Playback-How-To-Find-Events>;
- <https://www.vivint.com/resources/article/custom-actions#custom-action-4>;
- The Top 5 Security Essentials;
- Vivint Application Demo; and
- <https://support.vivint.com/s/article/Playback-How-To-Turn-On-and-Off>, among others.

173. In response, the third-party infringers acquired and operated the Vivint Accused Products such that all limitations of claims 1 and 5 of the '311 Patent were practiced.

174. Vivint specifically intended to induce, and did induce, the third-party infringers to infringe at least claims 1 and 5 of the '311 Patent, and Vivint knew of or was willfully blind to such infringement. Vivint advised, encouraged, and/or

aided the third-party infringers to engage in direct infringement, including through its encouragement, advice, and assistance to the third-party infringers to use the Vivint Accused Products.

175. Based on, among other things, the foregoing facts, Vivint induced infringement under 35 U.S.C. § 271(b) of at least claims 1 and 5 of the '311 Patent.

176. Further, Vivint sold, provided and/or licensed to the third-party infringers Vivint Accused Products especially made and adapted—and specifically intended by Vivint—to be used as components and material parts of the inventions covered by the '311 Patent. For example, playback features of the Vivint Accused Products which the third-party infringers used in a manner such that all limitations of at least claims 1 and 5 of the '311 Patent were met, and without which the third-party infringers would have been unable to use and avail themselves of the Vivint Accused Products in their intended manner.

177. Upon information and belief, Vivint also knew that the Vivint Accused Products operated in a manner that satisfied all limitations of at least claims 1 and 5 of the '311 Patent.

178. The playback technology in the Vivint Accused Products was specially made and adapted to infringe at least claims 1 and 5 of the '311 Patent and is not a staple article or commodity of commerce, and, because the functionality was designed to work with the Vivint Accused Products solely in a

manner that is covered by the '311 Patent, it did not have a substantial non-infringing use. Since at least as early as the filing of the Complaint, based on the foregoing facts, Vivint knew of or was willfully blind to the fact that such functionality was especially made and adapted for—and was in fact used in—the Vivint Accused Products in a manner that is covered by the '311 Patent.

179. Based on, among other things, the foregoing facts, Vivint contributorily infringed at least claims 1 and 5 of the '311 Patent under 35 U.S.C. § 271(c).

180. Vivint's acts of infringement of the '311 Patent were willful and intentional under the standard of *Halo Elecs., Inc. v. Pulse Elecs., Inc.*, 136 S. Ct. 1923 (2016). Since at least as early as the filing of the complaint, Vivint willfully infringed the '311 Patent by refusing to take a license. Instead of taking a license to the '311 Patent, Vivint made the business decision to “efficiently infringe” the '311 Patent. In doing so, Vivint willfully infringed the '311 Patent.

181. Vivint's acts of direct and indirect infringement caused damage to MPV and MPV is entitled to recover from Vivint the damages sustained by Plaintiff as a result of Vivint's infringing acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court, pursuant to 35 U.S.C. § 284.

**COUNT 4
(INFRINGEMENT OF U.S. PATENT NO. 8,305,452)**

182. MPV realleges and incorporates by reference the allegations set forth above as if restated verbatim here.

183. MPV is the owner, by assignment, of U.S. Patent No. 8,305,452 (Exhibit D).

184. As the owner of the '452 Patent, MPV holds all substantial rights in and under the '452 Patent, including the right to grant licenses, exclude others, and to enforce, sue, and recover damages for past and future infringement.

185. The '452 Patent was issued by the United States Patent Office on November 6, 2012. *See* Exhibit D.

186. The '452 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code after a full and fair examination.

187. Vivint has been and continues to practice without authorization or license one or more claims of the '452 Patent including claims 1, 2, 3, and 4.

188. Vivint makes, uses, offers to sell, sells, and/or imports products and services including its security and smart home services, Vivint Camera Products, Vivint Hub, Smart Home App, Sensors and Smart Drive and all other similar products that infringe the '452 Patent.

189. Vivint has directly infringed at least claims 1, 2, 3, and 4 of the '452

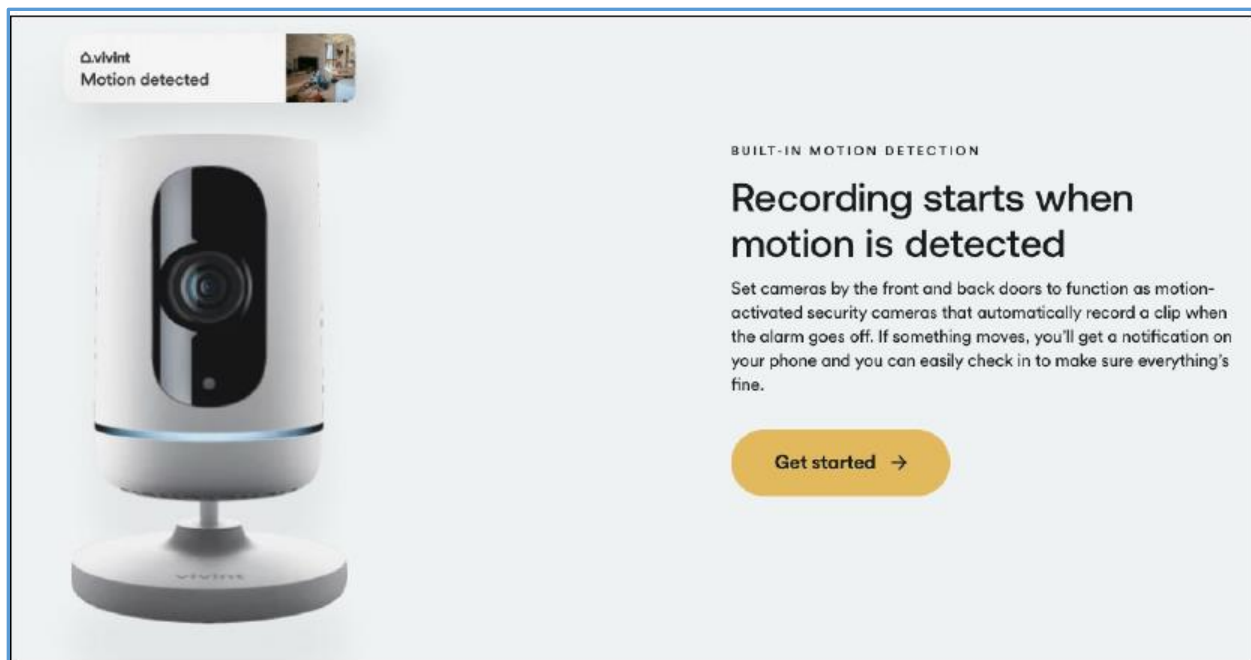
Patent by using (including its own testing), making, selling, offering for sale, licensing, and/or importing into the United States without authority the Vivint Home Security, Vivint Smart Home products that include playback features that are utilized with Vivint monitoring services, Vivint Camera Products, Sensors, Smart Home App, Vivint Hub and/or Smart Drive (“Vivint Accused Products”).

190. The accused Vivint devices and software satisfy each and every element of each asserted claim of the ’452 Patent either literally or under the doctrine of equivalents.

191. Vivint thus infringes the asserted claims of the ’452 Patent.

192. Vivint’s activities were without authority of license under the ’452 Patent.

193. Vivint Cameras (e.g. Vivint Outdoor Camera Pro, Ping) determine recording settings (i.e. “image acquisition settings”) to record video (i.e., “acquiring an image”).



<https://www.vivint.com/products/ping>

194. Vivint obtains, with a camera and a sound sensor (i.e., “associated sensors”), sound information before recording video (i.e., “pre-image-acquisition information prior to an image acquisition comprising audio information”) and digital camera presence (i.e., “announcement of the digital camera’s presence”).



VIVINT GLASS BREAK DETECTOR

Know if a window breaks

With Vivint Glass Break Detectors, if a window is broken, you'll get a notification and our 24/7 monitoring team is contacted immediately. So leave the house or go to bed at night with confidence—we're always there to hear the alarm and keep you and your home safe.

The advertisement features a white, rounded rectangular glass break detector with a small black dot in the center, set against a dark green background. The text is in a clean, sans-serif font.

<https://www.vivint.com/products/security-sensors>



Vivint Indoor Camera - Identify LED Meanings

The Vivint Indoor Camera was previously known as the Ping Camera.

White: Connected/normal operation



The advertisement shows a white, cylindrical indoor camera on a silver base. The camera has a black lens area in the center. The text is in a clean, sans-serif font.

<https://support.vivint.com/s/article/Ping-LED-Chart>

195. Vivint transmits only the detected camera/sound information to the Vivint Hub, Vivint SkyControl Panel, and/or Vivint services (i.e., “image-

acquisition-setting providing system”) external to the digital camera.

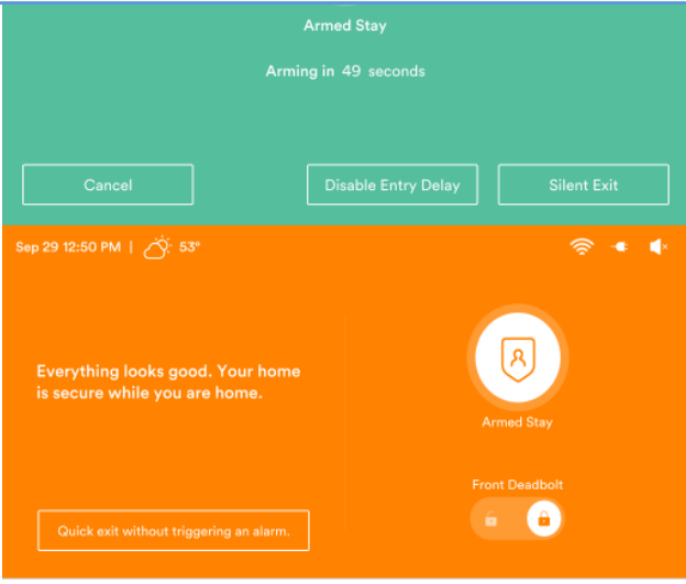
Arming to Leave Mode

Arming to Leave Mode is for arming the system when everyone is leaving the house. Leave Mode arms all sensor-protected perimeter doors and windows, interior motion sensors, interior glass break sensors, and any other sensor-protected interior doors. Your home must be unoccupied while the system is armed in Leave Mode. Leave Mode is typically used for arming the system during the daytime hours in a residential location, and non-business hours in a commercial location.

When the system is armed in Leave Mode, you cannot move about the protected areas without triggering the home security alarm (applies only if the system is installed with interior motion detectors). An alarm also occurs if any sensor-protected door or window is opened or glass breakage is detected (applies only if glass break detectors are installed in your system).

The following procedure describes how to arm the system in Leave Mode.

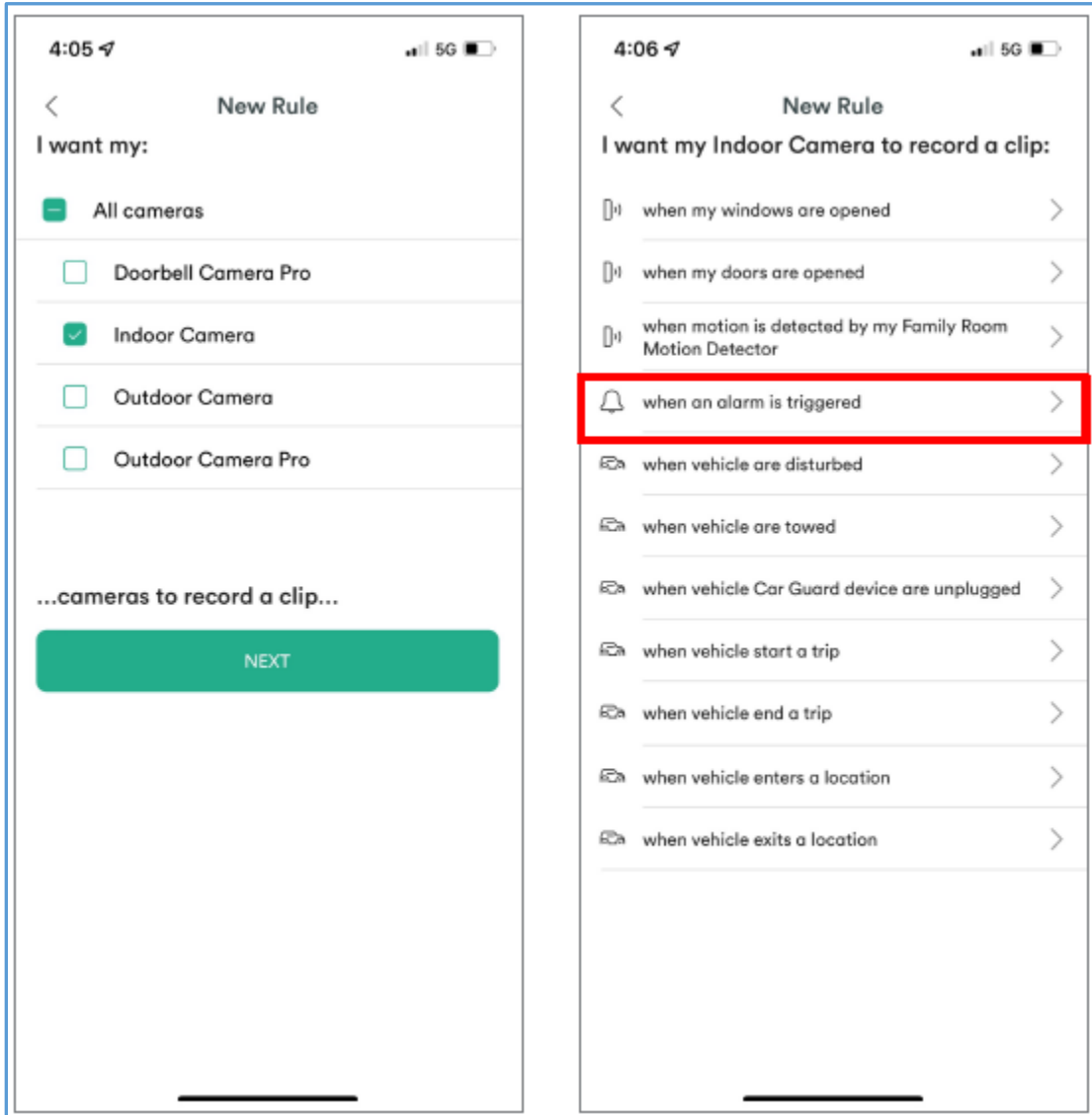
SkyControl Panel Quick Start Guide at 11.



- **Away:** every sensor in the home, including motion detectors, will be armed. Any movement detected by motion sensors or opening of doors and windows will trigger an alarm.
- **Stay:** all sensors are armed except for interior sensors like motion detectors or interior doors. This allows free movement around the home, but an alarm will be triggered if any perimeter point is accessed.

<https://support.vivint.com/s/article/Smart-Hub-3-10-Arm-and-Disarm>

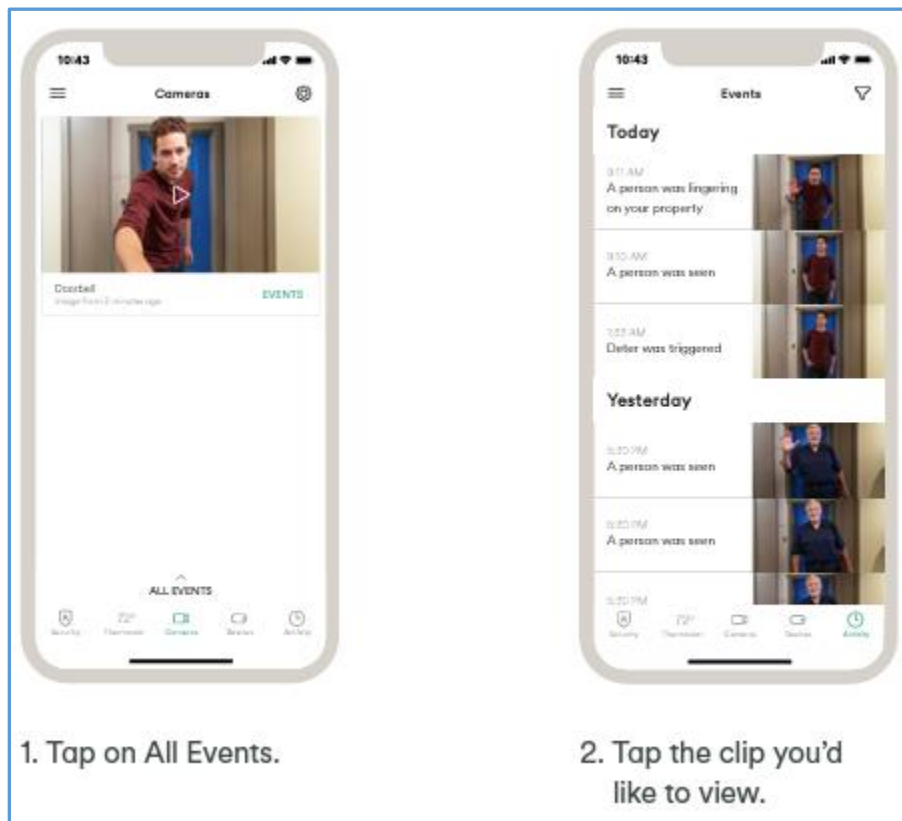
196. Vivint’s Cameras receive, from the Smart Hub, an instruction to record video (i.e., “determination of image acquisition settings”), based on the indication that a sound alarm is triggered and a particular camera is connected.



Vivint Application Demo

197. Vivint Cameras perform a video recording based upon the received

instructions.



Welcome to Smarter Living, New Resident User Guide

198. Vivint has used and tested the accused Vivint products and software in the United States.

199. Vivint created the Vivint Application Demo that is available on the Vivint Application.

200. Vivint's users, customers, agents and/or other third parties (collectively, "third-party infringers") infringed and continue to infringe, including under 35 U.S.C. § 271(a), at least claims 1,2, 3, and 4 of the '452 Patent by using the accused Vivint products and software.

201. Vivint has, since July 7, 2021, known or been willfully blind to the fact that third-party infringers' use of the accused Vivint products and software directly infringe the '452 Patent.

202. Vivint has knowledge of the '452 Patent, which covers operating the accused Vivint products and software in their intended manner such that all limitations of the asserted '452 Patent claims are met, and knowledge about how the accused products and software are used by the third-party infringers to practice the '452 Patent.

203. With knowledge or willful blindness to the fact that the third-party infringers' use of the accused Vivint devices and software in accordance with their intended manner of use practices the asserted claims of the '452 Patent, Vivint actively encourages the third-party infringers to directly infringe the '452 Patent by, for example: marketing them to the third-party infringers; supporting and managing the third-party infringers' use; and providing technical assistance to the third-party infringers during their continued use of the accused Vivint products by, for example, publishing instructional information directing third-party infringers how to make and use the infringing products to infringe the asserted claims of the '452 Patent.

204. Having known or been willfully blind to the fact that the third-party infringers' use of the accused Vivint products and software in their intended

manner such that all limitations of claims 1, 2, 3 and 4 of the '452 Patent were met directly infringed the '452 Patent, Vivint, upon information and belief, actively encouraged and induced the third-party infringers to directly infringe the '452 Patent by making, using, testing, selling, offering for sale, importing and/or licensing said accused Vivint products and software, and by, for example: marketing the accused Vivint products and software to the third-party infringers; supporting and managing the third-party infringers' use of the accused Vivint products and software; and providing technical assistance to the third-party infringers during their continued use of the accused Vivint products and software by, for example, publishing the following instructional information directing third-party infringers how to make and use the accused Vivint products and software to infringe claims 1, 2, 3, and 4 of the '452 Patent:

- <https://support.vivint.com/s/article/Playback-How-To-Find-Events>;
- <https://www.vivint.com/resources/article/custom-actions#custom-action-4>;
- The Top 5 Security Essentials;
- Vivint Application Demo; and
- <https://support.vivint.com/s/article/Playback-How-To-Turn-On-and-Off>, among others.

205. Vivint induces the third-party infringers to infringe the asserted claims

of the '452 Patent by directing or encouraging them to operate the infringing devices and software that satisfy all limitations of the asserted claims of the '452 Patent.

206. For example, Vivint advertises and promotes the features and functions of the accused devices and software and encourages the third-party infringers to operate them in an infringing manner. Vivint further provides technical assistance as to how the infringing products should be used by the third-party infringers by, for example, publishing instructional information directing third-party infringers how to use the infringing features to practice asserted claims 1, 2, 3, and 4 of the '452 Patent.

207. In response, the third-party infringers acquire and operate the accused Vivint devices and software such that all limitations of the asserted claims of the '452 Patent are practiced.

208. Vivint specifically intends to induce, and does induce, the third-party infringers to infringe claims 1, 2, 3, and 4 of the '452 Patent, and Vivint knew of or was willfully blind to such infringement.

209. Based upon the foregoing facts, among other things, Vivint induces infringement under 35 U.S.C. § 271(b) of at least claims 1, 2, 3 and 4 of the '452 Patent.

210. Vivint has knowledge, prior to and by this complaint, that the accused

Vivint devices and software are made and operate in a manner that satisfies all limitations of at least claims 1, 2, 3, and 4 of the '452 Patent.

211. Upon information and belief, Vivint's acts of infringement of the '452 Patent continue since this complaint was filed and are, therefore, carried out with knowledge of the asserted claims of the '452 Patent and how the accused Vivint software and services infringe them. Rather than take a license to the '452 Patent, Vivint's ongoing infringing conduct reflects a business decision to "efficiently infringe" the asserted claims and in doing so constitutes willful infringement under the standard of *Halo Elecs., Inc. v. Pulse Elecs., Inc.*, 136 S. Ct. 1923 (2016).

212. Vivint's acts of direct and indirect infringement have caused and continue to cause damage to MPV for which MPV is entitled to recover damages sustained as a result of Vivint's infringing acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court, pursuant to 35 U.S.C. § 284.

NOTICE

213. MPV does not currently distribute, sell, offer for sale, or make products embodying the Asserted Patents.

214. Vivint had notice of infringement of the '452 and '345 Patents since at least as early as July 7, 2021.

215. MPV has complied with all notice requirements under 35 U.S.C. §

287.

NOTICE OF REQUIREMENT OF LITIGATION HOLD

216. Vivint is hereby notified it is legally obligated to locate, preserve, and maintain all records, notes, drawings, documents, data, communications, materials, electronic recordings, audio/video/photographic recordings, and digital files, including edited and unedited or “raw” source material, and other information and tangible things that Vivint knows, or reasonably should know, may be relevant to actual or potential claims, counterclaims, defenses, and/or damages by any party or potential party in this lawsuit, whether created or residing in hard copy form or in the form of electronically stored information (hereafter collectively referred to as “Potential Evidence”).

217. As used above, the phrase “electronically stored information” includes without limitation: computer files (and file fragments), e-mail (both sent and received, whether internally or externally), information concerning e-mail (including but not limited to logs of e-mail history and usage, header information, and deleted but recoverable e-mails), text files (including drafts, revisions, and active or deleted word processing documents), instant messages, audio recordings and files, video footage and files, audio files, photographic footage and files, spreadsheets, databases, calendars, telephone logs, contact manager information, internet usage files, and all other information created, received, or maintained on

any and all electronic and/or digital forms, sources and media, including, without limitation, any and all hard disks, removable media, peripheral computer or electronic storage devices, laptop computers, mobile phones, personal data assistant devices, Blackberry devices, iPhones, video cameras and still cameras, and any and all other locations where electronic data is stored. These sources may also include any personal electronic, digital, and storage devices of any and all of Vivint's agents, resellers, distributors or employees if Vivint's electronically stored information resides there.

218. Vivint is hereby further notified and forewarned that any alteration, destruction, negligent loss, or unavailability, by act or omission, of any Potential Evidence may result in damages or a legal presumption by the Court and/or jury that the Potential Evidence is not favorable to Vivint's claims and/or defenses. To avoid such a result, Vivint's preservation duties include, but are not limited to, the requirement that Vivint immediately notify its agents, distributors and employees to halt and/or supervise the auto-delete functions of Vivint's electronic systems and refrain from deleting Potential Evidence, either manually or through a policy of periodic deletion.

JURY DEMAND

MPV hereby demands a trial by jury on all claims, issues and damages so triable.

PRAYER FOR RELIEF

MPV prays for the following relief:

- a. That Vivint be summoned to appear and answer;
- b. That the Court enter an order declaring that Vivint has infringed each of the Asserted Patents.
- c. That the Court grant MPV judgment against Vivint for all actual, consequential, special, punitive, increased, and/or statutory damages, including, if necessary, an accounting of all damages; pre- and post-judgment interest as allowed by law; and reasonable attorney's fees, costs, and expenses incurred in this action;
- d. That Vivint be found to have willfully infringed the Asserted Patents; and
- e. That MPV be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: June 17, 2022

Respectfully submitted,

CONNOR LEE & SHUMAKER PLLC

By: /s/ Cabrach J. Connor
Cabrach J. Connor
cab@clands.com
Texas Bar No. 24036390
Jennifer Tatum Lee
jennifer@clands.com
Texas Bar No. 24046950
John M. Shumaker

john@clands.com
Texas Bar No. 24033069

609 Castle Ridge Road, Suite 450
Austin, Texas 78746
512.646.2060 Telephone
888.387.1134 Facsimile