

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

VERDANT ENVIRONMENTAL  
TECHNOLOGIES,

Plaintiff,

v.

ECOBEE INC.,

Defendant.

CASE NO.: 10-cv-02771

Judge Andersen  
Magistrate Judge Denlow

JURY TRIAL DEMANDED

**SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff, Verdant Environmental Technologies (“Verdant”), complains of Defendant, ecobee Inc. (“ecobee”), as follows:

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This Court has exclusive jurisdiction over the subject matter of this case under 28 U.S.C. § 1338(a).

2. Plaintiff Verdant is a Canadian corporation with a principal place of business at 5667 Royalmount Avenue, Montreal, Quebec H4P 2P9, Canada.

3. Plaintiff is the exclusive owner and has standing to sue for infringement of United States Patents Nos. 6,619,555 (“the ‘555 Patent”), entitled “Thermostat System Communicating with a Remote Correspondent for Receiving and Displaying Diverse Information,” which issued September 16, 2003; 6,789,739 (“the ‘739 Patent”), entitled “Thermostat System with Location Data,” which issued September 14, 2004; 7,232,075 (“the ‘075 Patent”), entitled “Thermostat System with Touchscreen with User Interfaces or Operational Algorithms Via a Remote Correspondent,” which issued on June 19, 2007; and 7,185,825 (“the ‘825 Patent”), entitled “Programmable Thermostat Employing A Fail Safe Real Time Clock,” which issued March 6,

2007. Copies of the '555, '739, '075, and '825 Patents are attached hereto as Exhibits A-C, and E respectively. Collectively, the '555, '739, '075, and '825 Patents are referred to as "the Verdant Patents."

4. ecobee is a Canadian corporation with a principal place of business at 333 Adelaide St. W., 6<sup>th</sup> Floor, Toronto, Ontario M5V 1R5, Canada and a United States place of business located at 14 Porter Circle, Northboro, Massachusetts 01532.

5. This Court has personal jurisdiction over ecobee because, among other things, ecobee transacts business directly and/or through third parties in this judicial district by selling or offering to sell products that infringe one or more claims of each of the Verdant Patents. ecobee has specifically committed acts of infringement in this judicial district by selling or offering to sell infringing products through one or more of the nine businesses located in this district that ecobee identifies on its Internet website as dealers/contractors. *See, e.g.,* [www.ecobee.com/contractors/illinois.php](http://www.ecobee.com/contractors/illinois.php) (Ex. D hereto).

6. Venue is proper in this district under 28 U.S.C. §§ 1391(b)-(d) and 1400(b).

### **PATENT INFRINGEMENT**

#### **Count I: Infringement of the '555 Patent**

7. Verdant incorporates by reference herein each and every allegation contained in the paragraphs above as though fully set forth here.

8. ecobee manufactures, uses, sells and offers to sell, and/or imports into the United States for subsequent use and sale products that infringe, directly and/or indirectly, or which employ systems or components that make use of systems that infringe, directly and/or indirectly, one or more claims of the '555 Patent, including by way of example and not limitation the ecobee "Smart Thermostat."

9. ecobee, through the activities and products listed and described in the paragraph above, has infringed and is directly infringing the '555 Patent in violation of 35 U.S.C. § 271.

10. By reason of ecobee's infringement of the '555 Patent, Verdant has suffered, and will continue to suffer, substantial damages in an amount yet to be determined.

**Count II: Infringement of the '739 Patent**

11. Verdant incorporates by reference herein each and every allegation contained in the paragraphs above as though fully set forth here.

12. ecobee manufactures, uses, sells and offers to sell, and/or imports into the United States for subsequent use and sale products that infringe, directly and/or indirectly, or which employ systems or components that make use of systems that infringe, directly and/or indirectly, one or more claims of the '739 Patent, including by way of example and not limitation the ecobee "Smart Thermostat."

13. ecobee, through the activities and products listed and described in the paragraph above, has infringed and is directly infringing the '739 Patent in violation of 35 U.S.C. § 271.

14. By reason of ecobee's infringement of the '739 Patent, Verdant has suffered, and will continue to suffer, substantial damages in an amount yet to be determined.

**Count III: Infringement of the '075 Patent**

15. Verdant incorporates by reference herein each and every allegation contained in the paragraphs above as though fully set forth here.

16. ecobee manufactures, uses, sells and offers to sell, and/or imports into the United States for subsequent use and sale products that infringe, directly and/or indirectly, or which employ systems or components that make use of systems that infringe, directly and/or indirectly,

one or more claims of the '075 Patent, including by way of example and not limitation the ecobee "Smart Thermostat."

17. ecobee, through the activities and products listed and described in the paragraph above, has infringed and is directly infringing the '075 Patent in violation of 35 U.S.C. § 271.

18. By reason of ecobee's infringement of the '075 Patent, Verdant has suffered, and will continue to suffer, substantial damages in an amount yet to be determined.

**Count IV: Infringement of the '825 Patent**

19. Verdant incorporates by reference herein each and every allegation contained in the paragraphs above as though fully set forth here.

20. ecobee manufactures, uses, sells and offers to sell, and/or imports into the United States for subsequent use and sale products that infringe, directly and/or indirectly, or which employ systems or components that make use of systems that infringe, directly and/or indirectly, one or more claims of the '825 Patent, including by way of example and not limitation the ecobee "Smart Thermostat."

21. ecobee, through the activities and products listed and described in the paragraph above, has infringed and is directly infringing the '825 Patent in violation of 35 U.S.C. § 271.

22. By reason of ecobee's infringement of the '825 Patent, Verdant has suffered, and will continue to suffer, substantial damages in an amount yet to be determined.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Verdant respectfully requests that this Court enter judgment against Defendant ecobee and against its subsidiaries, successors, parents, affiliates, officers, directors, agents, servants, employees, and all persons in active concert or participation with ecobee, granting the following relief:

- A. The entry of judgment in favor of Plaintiff, and against ecobee;
- B. An award of damages adequate to compensate Plaintiff for the infringement that has occurred, together with prejudgment interest from the date the infringement began, but in no event less than a reasonable royalty as permitted by 35 U.S.C. § 284;
- C. A permanent injunction prohibiting further infringement of the '555, '739, '075, and '825 Patents; and,
- D. Such other relief that Plaintiff is entitled to under law and any other, and further relief that this Court or a jury may deem just and proper.

**JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: May 25, 2010

/s/ Matthew G. McAndrews  
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