

## ***B.C. firm sues Toronto's Ecobee in Texas court that's become a go-to for IP litigation***

The Logic

January 10, 2022 Monday 11:55 AM EST

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**Length:** 1154 words

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### **Body**

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A B.C. company that's filed a rash of intellectual property lawsuits against hardware multinationals is suing Toronto's Ecobee in a Waco, Texas court that's become a destination for patent litigation.

In a civil complaint filed Thursday, Nelson-based Cedar Lane Technologies alleged internet-of-things firm Ecobee's smart camera infringes two patents related to imaging arrays while its smart devices and app running on Google Assistant violate one covering how commands are transmitted between appliances. It's seeking damages.

#### Talking Point

B.C.-based Cedar Lane Technologies is suing Ecobee in a Texas court, alleging the Toronto-headquartered firm's smart devices infringe on its patents. The litigation comes shortly after Wisconsin-based Generac announced it was buying Ecobee for up to US\$770 million in November. Cedar Lane's lawyer says the company is seeking a US\$95,000 settlement.

The suit comes shortly after Ecobee's high-profile and high-priced exit. In November, Generac Holdings, a Waukesha, Wis.-based energy technology company, [announced](#) it would acquire Ecobee in a deal worth up to US\$770 million. The deal closed the following month. Generac and Ecobee did not respond to requests for comment about the lawsuit.

Corporations Canada's database shows Cedar Lane was incorporated in April 2019. Its sole director is Gregory Benoit, whose LinkedIn profile lists him as principal consultant at Patent Armory, which "identifies high-quality patents suitable for monetization through sales and/or licensing as well as patents that are in demand for defensive purposes." He previously worked on IP for Nortel and French telecom giant Alcatel-Lucent.

Since its incorporation, Cedar Lane has launched nearly 200 lawsuits in U.S. courts, data from filings aggregator Sqoop shows. Its targets include other smart home-device manufacturers like Honeywell, Sonos and Wyze Labs; camera brands Fujifilm, GoPro and Hasselblad and printer-makers Brother and Fujitsu; as well as consumer giants like Disney and Spotify.

In a November securities [filing](#), telecom firm Dish Networks, another defendant, describes Cedar Lane as a "non-practicing entity that has filed more than 75 patent infringement lawsuits." [Non-practicing entities](#)—sometimes pejoratively referred to as "patent trolls"—don't make or sell products or services based on the IP they own.

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"Cedar Lane, as you'll see from the docket, is highly experienced in litigating in this space," said Isaac Rabicoff, the company's lawyer, in an email to *The Logic*. Cedar Lane and Benoit did not respond directly to questions sent to Rabicoff.

The suit concerns three patents, but the plaintiff is looking for a broader deal. "We are seeking a settlement arrangement that would cover Cedar Lane's entire portfolio including future acquisitions," Rabicoff wrote in the email. The Alexandria, Va.-based attorney is an IP-dispute specialist, who has "led licensing campaigns against Amazon, Apple, Google, Huawei, LG, Samsung and T-Mobile," according to his website.

"I attach the full portfolio, which spans several dozen families relevant to your client's space," he wrote in the email. "I'm authorized to make an opening demand of 95K. Let's discuss once you have client feedback."

Though this reporter clearly identified himself as a journalist in all correspondence with Rabicoff, in a subsequent email, Rabicoff said he misunderstood *The Logic's* initial request for comment and had intended to communicate Cedar Lane's opening demand to Ecobee's counsel.

While both Cedar Lane and Ecobee are based in Canada, Cedar Lane is bringing its complaint in the Waco division of the U.S. District Court for the Western District of Texas. The court has become a destination for IP suits in recent years, actively [welcomed](#) by District Judge Alan Albright.

"Roughly 25 per cent of all the patent litigation in the entire United States [was] pending" before the court, Sens. Thom Tillis and Patrick Leahy [wrote](#) in a November letter to Chief Justice John Roberts, as head of the federal judicial branch, expressing concern about the concentration of cases. "We understand that a single judge in this district has openly solicited cases at lawyers' meetings and other venues, and urged patent plaintiffs to file their infringement actions in his court."

Cedar Lane's complaint alleges the Waco court has jurisdiction because Ecobee does business—and is infringing Cedar Lane's IP—in the district.

Founded in May 2007, Ecobee launched with a smart thermostat. It's [faced](#) competition from Google-owned Nest in that core business, which Amazon also recently entered.

Ecobee raised over US\$160 million in venture funding from backers including Amazon's Alexa Fund, the Caisse de dépôt et placement du Québec, and Relay Ventures (which is also an investor in *The Logic*), according to Pitchbook data. In October 2020, it [reportedly](#) conducted talks about going public via a special purpose acquisition company. But Generac ultimately bought the firm for US\$200 million in cash and US\$450 million in stock up front, with up to US\$120 million in further stock depending on performance.

Ecobee has been granted 17 utility and 11 design patents, Scoop data shows. It has also 17 published utility patent applications. The Cedar Lane suit isn't the only IP case in which it's currently involved. In November 2019, the U.S. International Trade Commission (USITC) [launched](#) an investigation of Ecobee—along with Google, Alarm.com, Schneider Electric and others—over claims they were importing and selling smart thermostats and other devices that infringed the patents of Palo Alto, Calif.-based EcoFactor.

In July 2021, the agency [determined](#) that there had been no violation. In April, though, EcoFactor filed suit against Ecobee in the same Waco court where Cedar Lane has sued, alleging infringement of four patents. The Canadian firm denies the claims and is seeking to have the patents invalidated.

In July 2021, Raleigh, N.C.-based Causum Enterprises, an energy grid-technology company, also sued Ecobee in Waco over four patents; Albright stayed that litigation in September, pending the outcome of the USITC process.

An increase in a company's profile, as happens with large fundraising rounds and big-dollar exits, can attract IP suits. "You're not infringing [on] something until you're making sales and capturing market—before that, you're too small to matter," IP lawyer Jim Hinton told *The Logic* in October 2019, [speaking](#) in the context of a case involving

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Shopify. Frequent patent litigators "won't be going after companies until they have a good amount of money to start paying up."

Over the last year, Ecobee has itself won default judgments against what it says are unauthorized retailers using its trademark without permission and selling "liquidated or used" products via Amazon and other sites that they falsely advertised as new. Most of those cases were filed in federal court in Massachusetts.

**Load-Date:** October 20, 2022

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