

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

OLLNOVA TECHNOLOGIES LTD.,

Plaintiff,

v.

ECOBEE TECHNOLOGIES ULC d/b/a
ECOBEE,

Defendant.

Case No. 2:22-cv-00072-JRG

The Honorable J. Rodney Gilstrap

DEFENDANT ECOBEE TECHNOLOGIES DISCLOSURE
OF FINAL INVALIDITY THEORIES

Pursuant to the Docket Control Order and the Court's instructions at the Final Pretrial Conference, and in response to Ollnova's disclosure of its Final Election of Asserted Claims on August 29, 2023, ecobee makes the following disclosures.

ecobee intends to pursue the following defenses and counterclaims as set forth in its Answer to Plaintiff's Second Amended Complaint, Defenses and Counterclaims (Dkt. 84), including at trial and/or post-trial, if applicable: Second Defense: Non-Infringement, Third Defense: Invalidity (including under 35 U.S.C. §§ 101, 102 and 103), Fourth Defense: Limitation on Patent Damages, Ninth Defense: Not an Exceptional Case, Tenth Defense: Patent Marking, and Counterclaims I through VIII. Moreover, for avoidance of doubt, and to the extent not otherwise set forth herein, ecobee intends to pursue its subject matter eligibility defense for the '495 Patent and its marking defense for the '282, '887, and '371 Patents.

ecobee further provides the following disclosure of final invalidity theories.

- Claims 1 and 6 of the '282 Patent are anticipated or obvious in view of Ahmed
- Claims 1, 3, 6, and 21 of the '282 Patent are obvious in view of Ahmed in combination with Kates
- Claims 1 and 6 of the '282 Patent are anticipated or obvious in view of McFarland
- Claims 1, 3, 6, and 21 of the '282 Patent are obvious in view of McFarland in combination with Kates
- Claims 1, 11, 12, and 20 of the '887 Patent are anticipated or obvious in view of Kates alone or in combination with Lareau
- Claims 1, 11, 12, and 20 of the '887 Patent are anticipated or obvious in view of Helgeson alone or in combination with Lareau
- Claim 1 of the '495 Patent is Anticipated or Obvious in view of Mesarina

- Claim 2 of the '495 Patent is Obvious in view of Mesarina
- Claims 1 and 2 of the '495 Patent are Obvious in view of Herrmann
- Claim 1 of the '495 Patent is Obvious in view of Ahmed
- Claim 2 of the '495 Patent is Obvious in view of Ahmed in combination with Herrmann
- Claims 1, 5, and 17 of the '371 Patent are anticipated or obvious in view of Kates
- Claims 1, 5, and 17 of the '371 Patent are anticipated or obvious in view of Hitt

Dated: September 1, 2023

Respectfully submitted,

By: /s/ Jason M. Dorsky
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CERTIFICATE OF SERVICE

I hereby certify that this document is being served upon counsel of record on this 1st day of September, 2023.

By: /s/ Eric T. Harmon