

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

OLLNOVA TECHNOLOGIES, LIMITED, (CAUSE NO. 2:22-CV-072-JRG
)
Plaintiff, ()
vs. ()
ECOBEE, INC., et al., (MARSHALL, TEXAS
) AUGUST 10, 2023
Defendants. (9:00 A.M.

PRETRIAL CONFERENCE

BEFORE THE HONORABLE RODNEY GILSTRAP
UNITED STATES CHIEF DISTRICT JUDGE

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ecobee Ex. 1050
ecobee v. Ollnova
IPR2024-00131

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1 THE COURT: Be seated, please.

2 This is the time set for pretrial conference in the
3 matter of Ollnova versus ecobee. This is Civil Case
4 2:22-CV-0072.

5 The Court will ask for announcements at this time.

6 What says the Plaintiff?

7 MS. FAIR: Good morning, Your Honor. Andrea Fair on
8 behalf of the Plaintiff. With me today I'm joined by
9 Mr. Brett Cooper, Mr. Drew Hollander, Mr. Jonathan Yim,
10 Mr. Seth Hasenour, and from our office Mr. Garrett Parrish.
11 And we are ready to proceed.

12 THE COURT: All right. Thank you.

13 What's the announcement for the Defendant?

14 MS. AINSWORTH: Good morning, Your Honor. Jennifer
15 Ainsworth on behalf of Defendant ecobee. With me today is
16 Mr. Manny Caixeiro, Mr. Jason Dorsky, Daniel Apgar, Megan
17 Woodworth, and Mike Sandonato. Also seated with us is
18 Mr. Jason Plunkert who is running our technology today. And
19 we are ready to proceed.

20 THE COURT: So it's ecobee with a hard E, not
21 ecobee?

22 MS. AINSWORTH: It has taken me more than a year to
23 get comfortable with that it's ecobee, Your Honor.

24 THE COURT: All right. I'll try to comport myself
25 with your preferred pronunciation.

1 All right. Before we get into the disputed pretrial
2 motions and matters that are before the Court today, counsel,
3 I want to go over some housekeeping matters with you.

4 As you know, this case is set for jury selection and
5 trial on September the 11th. As I mentioned to you earlier,
6 there is a possibility the Court might move jury selection
7 back to the preceding Friday, but that is yet to be
8 determined, but at least put that on your radar.

9 When we select the jury in this case, each side will be
10 afforded 30 minutes per side to conduct voir dire. As is this
11 Court's common and usual practice, as a part of that 30
12 minutes, you may but are not required to use the -- up to the
13 first three minutes of that 30 to give a high-level,
14 non-argumentative, thumbnail sketch of the issues in the case.
15 If you choose to do that, A, do it at the beginning; B, don't
16 go over three minutes; and C, and most importantly, make it
17 non-argumentative.

18 I'm going to seat eight jurors to hear the evidence in
19 this case, and each side will be afforded four peremptory
20 challenges.

21 I'm going to allocate 12 hours per side to put on the
22 evidence in this case. That's what I understand both sides
23 have requested of the Court. That 12 hours will not include
24 jury selection, opening statements, or closing arguments.

25 With regard to opening statements, each side will be

1 afforded 30 minutes to present their opening statements to the
2 jury, and each side will be afforded 40 minutes per side to
3 present their closing arguments. The Plaintiff is certainly
4 authorized to split their time between a first and a final
5 closing. They must use, however, at least half of their
6 allotted time during the first closing argument.

7 I'm going follow the Court's usual practice, and I will
8 note that both sides have very knowledgeable and experienced
9 local counsel assisting them so that gives the Court a great
10 deal of comfort, but I will be available in chambers each
11 morning by 7:30 to take up any disputes from overnight
12 regarding demonstratives or other matters. I do that not
13 because I like getting up early in the morning; I do that to
14 stretch and maximize the effective use of your designated but
15 limited trial time.

16 You are to meet and confer on an ongoing, non-stop basis
17 throughout the trial. Each evening after we begin the trial,
18 you should notify the Court by email to my clerks not later
19 than 10:00 p.m. if there are disputes that you are meeting and
20 conferring on that have not been resolved. That 10:00 report
21 is just a reading of where you are; it is not the signal to
22 stop meeting and conferring and go to bed; you are to keep
23 meeting and conferring. And if by the next morning you still
24 have disputes that are unresolved and need the Court's
25 attention, then you should deliver to chambers by 7:00 a.m.