

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CARRIER GLOBAL CORPORATION,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. _____
)	
ECOFACTOR, INC.,)	JURY TRIAL DEMANDED
)	
Defendant.)	

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff Carrier Global Corporation (“Plaintiff” or “Carrier”), by its attorneys, files this Complaint against Defendant EcoFactor, Inc. (“Defendant” or “EcoFactor”) and alleges as follows:

NATURE OF THE ACTION

1. This is an action for declaratory judgment of noninfringement of US. Patent Nos. 8,423,322 (the “322 Patent”), 8,019,567 (the “567 Patent”), 10,612,983 (the “983 Patent”), 8,596,550 (the “550”), 8,886,488 (the “488 Patent”) (collectively, “Asserted Patents”), attached as Exhibits 1-5 respectively against EcoFactor, pursuant to the Declaratory Judgment Act, 28 USC §§ 2201-02, and the patent laws of the U.S., 35 U.S.C. § 1 et seq., and for other relief the Court deems just and proper.

2. Carrier requests this relief because EcoFactor has filed a complaint with the International Trade Commission (“ITC”), Docket No. 337-3535, claiming Carrier, among other proposed respondents, has infringed the Asserted Patents because Carrier manufactures outside of the U.S. and has sold for importation into the U.S., imported into the U.S., and/or sold within the U.S. after importation, certain “Carrier Accused Products” as defined therein. A true and correct copy of EcoFactor’s public ITC complaint is attached as Exhibit 6. The products accused in the ITC Investigation are Carrier’s smart thermostat system (e.g., Infinity System Control), including device-side and cloud-base features thereof, and related accessories (e.g., Infinity Series, Infinity System products, and ecobee3 light Pro and ecobee Smart Thermostat Pro

with voice control) (collectively “Accused Products”). Carrier denies infringement of the claims of the Asserted Patents.

PARTIES

3. Plaintiff Carrier is a corporation organized and existing under the laws of the State of Delaware with a principle place of business located at 13995 Pasteur Blvd, Palm Beach Gardens, Florida 33148.

4. On information and belief, EcoFactor, Inc. is a privately held company organized and existing under the laws of the State of Delaware with a principal place of business located at 441 California Avenue, Number 2, Palo Alto, California 94306.

JURISDICTION AND VENUE

5. Carrier files this complaint against EcoFactor pursuant to the patent laws of the United States, Title 35 U.S.C. § et seq, with a specific remedy sought based upon the laws authorizing actions for declaration judgment in the federal courts of the United States, 28 U.S.C. §§ 2201 and 2202, and under patent laws of the United States, 35 U.S.C. §§ 1-390.

6. This Court has subject matter jurisdiction over this action pursuant to the patent laws of the United States’ patent laws, and 28 U.S.C. §§ 1331, 1338(a), and 2201(a).

7. This Court has personal jurisdiction over EcoFactor, which on information and belief is incorporated within this District.

8. A substantial controversy of sufficient immediacy and reality exists between the parties to warrant the issuance of a declaratory judgment. EcoFactor has filed a complaint in the ITC, alleging that Carrier directly and indirectly infringes claims of each of the Asserted Patents through Carrier’s sale for importation, importation, and/or sale within the United States after importation of the Accused Products. Exhibit 6 (Public Complaint in *Certain Smart Thermostat Systems, Smart HVAC Systems, Smart HVAC Control Systems, and Components Thereof*, 337-DN-3535 (I.T.C. Feb. 26, 2021)) at ¶¶ 78, 104-111; Exhibit 6 (claim charts for Carrier accused products attached as Exhibits 21-25 to the ITC Complaint). Carrier denies infringement of the claims of the Asserted Patents.

9. Venue in this District is proper pursuant to 28 U.S.C. § 1391(b)-(c).

FACTUAL BACKGROUND

PATENTS-IN-SUIT

10. The '322 Patent is entitled "System and Method for Evaluating Changes in the Efficiency of an HVAC System" and attached hereto as Exhibit 1, states on its cover that it was issued on April 16, 2013 to named inventors John Steinberg of Millbrae, California and Scott Hublou of Redwood City, California. The '322 Patent also states that the initial assignee was EcoFactor, Inc., of Millbrae, California. On information and belief, the '322 Patent is currently assigned to EcoFactor.

11. The '567 Patent is entitled "System and Method for Evaluating Changes in the Efficiency of an HVAC System" and attached hereto as Exhibit 2, states on its cover that it was issued on September 13, 2011 to named inventors John Steinberg of Millbrae, California and Scott Hublou of Redwood City, California. The '567 Patent also states that the initial assignee was EcoFactor, Inc., of Millbrae, California. On information and belief, the '567 Patent is currently assigned to EcoFactor.

12. The '983 Patent is entitled "System and Method for Evaluating Changes in the Efficiency of an HVAC System" and attached hereto as Exhibit 3, states on its face that it was issued on April 7, 2020 to named inventors John Steinberg of Millbrae, California and Scott Hublou of Redwood City, California. The '983 Patent also states that the initial assignee was EcoFactor, Inc., of Redwood City, California. On information and belief, the '983 Patent is currently assigned to EcoFactor.

13. The '550 Patent is entitled "System, Method and Apparatus for Identifying Manual Inputs to and Adaptive Programming of a Thermostat" and attached hereto as Exhibit 4, states on its cover that it was issued on December 3, 2013 to named inventors John Steinberg of Millbrae, California; Scott Hublou of Redwood City, California; and Leo Cheung of Sunnyvale, California. The '550 Patent also states that the initial assignee was EcoFactor, Inc., of Millbrae, California. On information and belief, the '550 Patent is currently assigned to EcoFactor.

14. The '488 Patent is entitled "System and Method for Calculating the Thermal Mass of a Building" and attached hereto as Exhibit 5, states on its face that it was issued on November 11, 2014 to named inventors John Steinberg of Millbrae, California and Scott Hublou of Redwood City, California. The '488 Patent also states that the initial assignee was EcoFactor, Inc., of Millbrae, California. On information and belief, the '488 Patent is currently assigned to EcoFactor.

15. Carrier's Accused Products do not directly or indirectly infringe any asserted claim of the Asserted Patents, either literally or under the doctrine of equivalents. Carrier has not caused, directed, requested, or facilitated any such infringement, and it did not have any specific intent to do so.

**DISPUTE BETWEEN CARRIER AND ECOFACTOR
CONCERNING THE ASSERTED PATENTS**

16. On February 26, 2021, EcoFactor filed the ITC Complaint alleging that Carrier, among others, purportedly infringes certain claims of the Asserted Patents. Exhibit 6 at ¶¶ 78, 104-111; (claim charts for Carrier accused products attached as Exhibits 21-25 to the ITC Complaint). EcoFactor's ITC Complaint alleges that the Accused Products purportedly infringe "either literally or pursuant to the doctrine of equivalents, and either directly or indirectly under a theory of inducement or contributory infringement." Exhibit 6 at ¶ 110.

17. Accordingly, an actual and justiciable controversy exists between Carrier and EcoFactor concerning whether Carrier infringes one or more claims of any of the Asserted Patents. Carrier now seeks a declaratory judgment that Carrier does not infringe the claims of the Asserted Patents.

**COUNT I:
DECLARATORY JUDGMENT OF NONINFRINGEMENT OF THE '322 PATENT**

18. Carrier hereby restates and incorporates by reference the allegations set forth in paragraphs 1 through 17 of this Complaint as if fully set forth herein.

19. In its ITC complaint, EcoFactor alleges that Carrier directly and indirectly infringes the '322 Patent. See e.g., Ex. 6, ¶¶ 4, (Table 1), 84, 85.

20. The Accused Products do not include or practice multiple claim limitations of the '322 Patent, including but not limited to the following limitations of claim 1: “one or more processors that receive measurements of outside temperatures from at least one source other than said HVAC system and compare said temperate measurements from said first structure”, “wherein said one or more processor compares the inside temperature of said first structure and the outside temperature over time”, and “wherein said one or more processors compares an inside temperature recorded inside the first structure with an inside temperature of said first structure recorded at a different time to determine whether the operational efficiency of the HVAC system has decreased over time.”

21. The Accused Products do not include or practice multiple claim limitations of the '322 Patent, including but not limited to the following limitations of claim 8: “one or more processors that receive measurements of outside temperatures from at least one source other than said first and second HVAC systems and compare said temperature measurements from said first HVAC system and said second HVAC system and said outside temperature measurements over time to determine the relative efficiency of the first HVAC system and the second HVAC system.”

22. An actual and justiciable controversy therefore exists between Carrier and EcoFactor regarding whether any of the Accused Products have infringed the '322 Patent. A judicial declaration is necessary to determine the parties' respective rights regarding the '322 Patent.

23. Carrier seeks a judgment declaring that Carrier does not directly or indirectly infringe any asserted claims of the '322 Patent, either literally or under the doctrine of equivalents and is not liable for any infringement.

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