

EXHIBIT B-32

Exhibit B-32

Invalidity Contentions: U.S. Patent No. 10,534,382

W.D. Tex., Case Nos. 6:20-cv-00075-ADA, 6:20-cv-00078, 6:20-cv-00080¹

REPRESENTATIVE CLAIM LIMITATION: “wherein the interface is configured to allow the user to turn the HVAC system on or off”

ASSERTED CLAIMS: This limitation is present in the following Asserted Claims: ’382 patent claims 15.

CLOSURE: To the extent Plaintiff alleges that any anticipatory reference identified in Exhibit A does not disclose any portion of the above limitation, the following exemplary pincites show that those allegedly missing portions would have been obvious to one of ordinary skill in the art at the time the alleged invention was made in light of the prior art references identified in the table below. Moreover, it would have been obvious to combine any anticipatory reference identified in Exhibit A with any one or more of the following references for at least the reasons explained in the prior document of Defendants’ Invalidity Contentions or as identified herein. All emphasis added unless otherwise indicated.

Reference	Disclosure*
U.S. Patent No. 2004/0117330 (Ehlers’)	<p><i>Ehlers discloses “wherein the interface is configured to allow the user to turn the HVAC system on or off.”</i></p> <p>“With reference to FIG. 5C, selection of the review request link 5.22 for a given node or station displays an available program capacity pop-up 5.24. The available program capacity pop-up 5.24 lists all defined PROGRAMS that are available for the given node at the current time. Each PROGRAM includes a corresponding checkbox 5.26 which enables the utility to activate a given PROGRAM. For each PROGRAM listed, the instantaneous, real time available power is listed in a box 5.28 for each PROGRAM. The total capacity 5.30 is also listed for each PROGRAM, i.e., if all defined devices 1.08 within a given PROGRAM were currently drawing power. The available power refers to the instantaneous power which would be available if the respective or corresponding PROGRAM were activated. The available program capacity pop-up 5.24 also includes a duration drop-down list 5.32. The available program capacity pop-up 5.24 may be utilized to immediately activate one or more PROGRAMS to free up capacity for selected duration. For example, in the illustrated embodiment if the emergency HVAC curtailment program and the emergency</p>

¹ These contentions are being served by defendants in the following actions: *EcoFactor, Inc. v. Google LLC*, No. 6:20-cv-00075-ADA; *EcoFactor, Inc. v. Ecobee, Inc.*, No. 6:20-cv-00078-ADA; and *EcoFactor, Inc. v. Vivint, Inc.*, No. 6:20-cv-00080-ADA.

To the extent that these Invalidity Contentions rely on or otherwise embody particular constructions of terms or phrase in the Asserted Claims, Defendants are not proposing any such contentions as alternative constructions of those terms or phrases. Various positions put forth in this document are predicated on Plaintiff’s incorrectly and overly broad interpretation of the claims as evidenced by its Invalidity Contentions provided to Defendants. Those positions are not intended to and do not necessarily reflect Defendants’ interpretation of the true and proper scope of Plaintiff’s claims, and Defendants reserve the right to adopt claim construction positions that differ from or even conflict with various positions put forth in this document.

Reference Disclosure*

shut-off program were activated, the instantaneous available power would be 1200 watts. The available program capacity pop-up 5.24 also includes a submit button 5.34, a closed button 5.36 and a refresh button 5.38. If one or more of the checkboxes 5.26 were activated, and the submit button 5.34 were selected, the utility control system 1.12 would broadcast a curtailment signal to the gateway nodes 1.10D to shut down the affected devices 1.08 or otherwise curtail those devices 1.08. Activation of the closed button 5.36 closes the available program capacity pop-up 5.24. Activation of the refresh button 5.38 updates the available power available for each PROGRAM.”

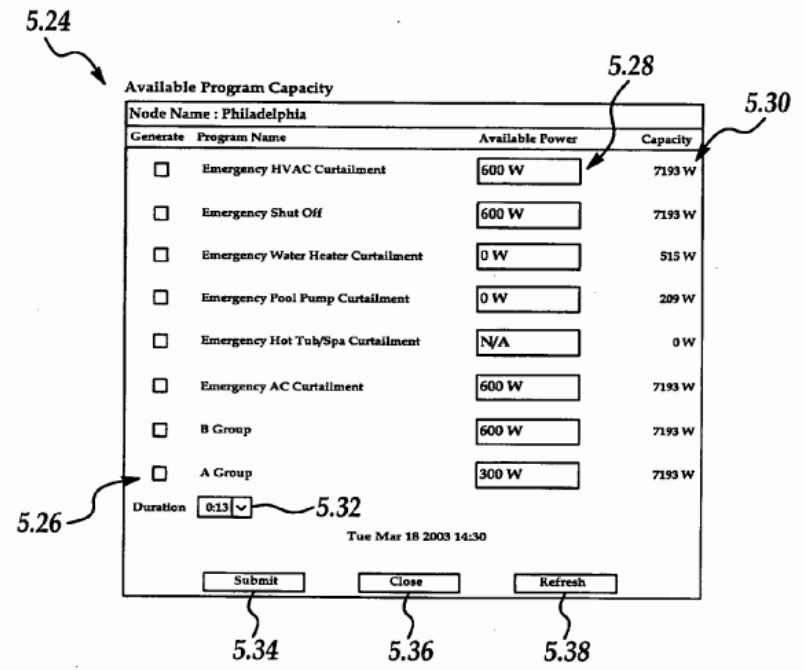


Figure 5C

Ehlers at [0346]

Reference	Disclosure*																																																																																	
	<p>Program Participation 4.96</p> <div style="border: 1px solid black; padding: 5px;"><p>Program Listing</p><table border="1"><thead><tr><th rowspan="2">Participate</th><th rowspan="2">Product Name</th><th rowspan="2">Supply Type</th><th colspan="2">Effective Dates</th><th colspan="2">Effective Daily</th></tr><tr><th>From</th><th>To</th><th>From</th><th>To</th></tr></thead><tbody><tr><td><input checked="" type="checkbox"/></td><td>Emergency AC Curtailment</td><td>On Demand</td><td>01/01</td><td>12/31</td><td>12:00am</td><td>11:59pm</td></tr><tr><td><input checked="" type="checkbox"/></td><td>A Group</td><td>On Demand</td><td>01/01</td><td>12/31</td><td>12:00am</td><td>11:59pm</td></tr><tr><td><input type="checkbox"/></td><td>B Group</td><td>On Demand</td><td>01/01</td><td>12/31</td><td>12:00am</td><td>11:59pm</td></tr><tr><td><input type="checkbox"/></td><td>Emergency HVAC Curtailment</td><td>On Demand</td><td>01/01</td><td>12/31</td><td>12:00am</td><td>11:59pm</td></tr><tr><td><input type="checkbox"/></td><td>Emergency Hot Tub/Spa Curtailment</td><td>On Demand</td><td>01/01</td><td>12/31</td><td>12:00am</td><td>11:59pm</td></tr><tr><td><input type="checkbox"/></td><td>Emergency Pool Pump Curtailment</td><td>On Demand</td><td>01/01</td><td>12/31</td><td>12:00am</td><td>11:59pm</td></tr><tr><td><input type="checkbox"/></td><td>Emergency Shut Off</td><td>On Demand</td><td>01/01</td><td>12/31</td><td>12:00am</td><td>11:59pm</td></tr><tr><td><input type="checkbox"/></td><td>Emergency Water Heater Curtailment</td><td>On Demand</td><td>01/01</td><td>12/31</td><td>12:00am</td><td>11:59pm</td></tr><tr><td><input type="checkbox"/></td><td>AfternoonPeaker</td><td>Scheduled</td><td>04/01</td><td>10/01</td><td>12:00am</td><td>6:00pm</td></tr><tr><td><input type="checkbox"/></td><td>MorningPeaker</td><td>Scheduled</td><td>01/01</td><td>12/31</td><td>6:00am</td><td>12:00pm</td></tr></tbody></table><p style="text-align: center;"><input type="button" value="Apply"/></p></div> <p style="text-align: center;">Figure 4R</p> <p>4.100 4.98</p> <p>Ehlers at FIG. 4R.</p>	Participate	Product Name	Supply Type	Effective Dates		Effective Daily		From	To	From	To	<input checked="" type="checkbox"/>	Emergency AC Curtailment	On Demand	01/01	12/31	12:00am	11:59pm	<input checked="" type="checkbox"/>	A Group	On Demand	01/01	12/31	12:00am	11:59pm	<input type="checkbox"/>	B Group	On Demand	01/01	12/31	12:00am	11:59pm	<input type="checkbox"/>	Emergency HVAC Curtailment	On Demand	01/01	12/31	12:00am	11:59pm	<input type="checkbox"/>	Emergency Hot Tub/Spa Curtailment	On Demand	01/01	12/31	12:00am	11:59pm	<input type="checkbox"/>	Emergency Pool Pump Curtailment	On Demand	01/01	12/31	12:00am	11:59pm	<input type="checkbox"/>	Emergency Shut Off	On Demand	01/01	12/31	12:00am	11:59pm	<input type="checkbox"/>	Emergency Water Heater Curtailment	On Demand	01/01	12/31	12:00am	11:59pm	<input type="checkbox"/>	AfternoonPeaker	Scheduled	04/01	10/01	12:00am	6:00pm	<input type="checkbox"/>	MorningPeaker	Scheduled	01/01	12/31	6:00am	12:00pm
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