```
1
                      UNITED STATES DISTRICT COURT
 2
           FOR THE WESTERN DISTRICT OF TEXAS WACO DIVISION
 3
 4
 5
 6
      EcoFactor, Inc.,
 7
                 Plaintiff,
 8
          vs.
                                  ) Case No.
                                    6:21-cv-00428-ADA
 9
      ecobee, Inc.,
10
                 Defendants.
11
12
              ZOOM VIDEOTAPED DEPOSITION OF DAVID AUSLANDER
13
                         Lafayette, California
14
                        Friday, February 2, 2023
15
                                Volume I
16
17
18
19
20
2.1
      Reported by:
22
      LORI M. BARKLEY
      CSR No. 6426
23
      Job No. 5698028
2.4
      PAGES 1 - 76
25
                                                       Page 1
```



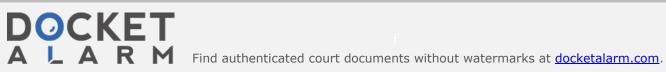
```
1
                     UNITED STATES DISTRICT COURT
 2
           FOR THE WESTERN DISTRICT OF TEXAS WACO DIVISION
 3
 4
      EcoFactor, Inc.,
 5
                 Plaintiff,
 6
                                 ) Case No.
         vs.
                                 ) 6:21-cv-00428-ADA
 7
      ecobee, Inc.,
                 Defendants.
8
9
10
                Zoom Videotaped deposition of DAVID AUSLANDER,
11
12
      Volume I, taken at Lafayette, California, beginning at
      9:00 a.m., and ending at 11:25 a.m., on Friday, February
13
14
       2, 2023, before LORI M. BARKLEY, Certified Shorthand
15
      Reporter No. 6426.
16
17
18
19
20
21
22
23
24
25
                                                          Page 2
```



```
1
     APPEARANCES:
 2
3
     RUSS AUGUST & KABAT
     BY: Jonathan Link
4
5
     Attorney at Law
6
     12424 Wilshire Boulevard, 12th Floor
     Los Angeles, CA 90025
8
     Jlink@raklaw.com
9
10
     VENABLE LLP
11
     BY: Justin Oliver
12
     Attorney at Law
13
     600 Massachusetts Avenue, NW
     Washington, DC 20004
14
15
     (202) 721-5423
16
     Joliver@venable.com
17
18
19
20
21
22
23
24
25
                                              Page 3
```



1		INDEX	
2	WITNESS		
3	DAVID AUSLANI	DER	
4			PAGE
5		Examination by Mr. Link	5
6			
7		EXHIBITS	
8	NUMBER	DESCRIPTION	PAGE
9	Exhibit 1	Declaration of David Auslander	15
10	Exhibit 2	Ground 1 Opinions	18
11	Exhibit 3	Ehlers 330 Reference, 3-28-03	19
12	Exhibit 4	Copy of 719 Patent	20
13	Exhibit 5	Table 28 from Wruck	22
14	Exhibit 6	Overview of Ehlers 330	46
15	Exhibit 1006	Column 19, Lines 1-24, Outdoor	65
		Climate Conditions	
16			
	Exhibit 1007	Boiat Reference in Auslander	66
17		Declaration	
18			
19			
20			
21			
22			
23			
24			
25			
			Page 4
			_



1	Lafayette, California; Friday, February 2, 2023			
2	9:00 a.m.			
3				
4	DAVID AUSLANDER,			
5	having been administered an oath, was examined and			
6	testified as follows:			
7				
8	EXAMINATION			
9	BY MR. LINK:			
10	Q. Good morning, Dr. Auslander.			
11	A. Good morning.			
12	Q. How many depositions have you been in?			
13	A. I don't know, I haven't counted.			
14	Q. Are we talking, you know, single digits or			
15	double digits or over a hundred			
16	A. No, modest double digits.			
17	Q. And how many of them have been remote			
18	depositions like this?			
19	A. This started of course with COVID. So I've been			
20	in, how many, three at this point, maybe, something like			
21	that.			
22	Q. Okay. Just a reminder on that since we're			
23	making a written record. Both of us want to be mindful			
24	of allowing the other to complete their question or			
25	answer before talking. If a question's unclear, just			



Page 5

DOCKET A L A R M

Explore Litigation Insights



Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time** alerts and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.

