

**IN THE UNITED STATE DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ECOBEE, INC.)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 1:21-CV-00323-MN
)	
ECOFACOR, INC.,)	[JURY TRIAL DEMANDED]
)	
Defendant.)	

ANSWER

Defendant, EcoFactor, Inc., a Delaware corporation (“EcoFactor” or “Defendant”) through its undersigned counsel, hereby answers the Complaint for Declaratory Judgment filed by Plaintiff ecobee, Inc. (“Plaintiff” or “ecobee”) as follows:

NATURE OF THE ACTION

1. EcoFactor admits that the Complaint purports to set forth a claim for Declaratory Judgment under Title 28 of the United States Code, but otherwise denies the allegations of Paragraph 1 of the Complaint.

THE PARTIES

- 2. Admitted.
- 3. Admitted.

JURISDICTION AND VENUE

4. EcoFactor admits that the Complaint purports to set forth a claim for remedy under Titles 28 and 35 of the United States Code, but otherwise denies the allegations of Paragraph 4 of the Complaint.

- 5. Admitted.

6. Admitted.

7. EcoFactor admits that it has filed a complaint with the International Trade Commission (“ITC Complaint”), Docket No. 3535, claiming that ecobee has infringed the Patents-In-Suit, but otherwise denies the allegations of Paragraph 7 of the Complaint.

8. EcoFactor denies the allegations of Paragraph 8 of the Complaint and avers that this district is not a convenient forum for the parties, witnesses, and the interests of justice, and this case should be transferred pursuant to 28 U.S.C. § 1404 to a different district court, such as the Western District of Texas Waco Division.

FACTUAL BACKGROUND
PATENTS-IN-SUIT

9. Admitted.

10. Admitted.

11. Admitted.

12. Admitted.

DISPUTE BETWEEN ECOBEE AND ECOFACTOR
CONCERNING THE PATENTS-IN-SUIT

13. Admitted.

14. EcoFactor admits that an actual and justiciable controversy exists between ecobee and EcoFactor concerning whether ecobee infringes one or more claims of any of the Patents-In-Suit and that ecobee now seeks a declaratory judgment, but otherwise denies the allegations of Paragraph 14 of the Complaint.

COUNT I:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '567 PATENT

15. EcoFactor incorporates by reference the responses as set forth in paragraphs 1 through 14 of this Answer as if fully set forth herein.

16. Admitted.

17. Admitted.

18. Denied.

19. Denied.

COUNT II:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '983 PATENT

20. EcoFactor incorporates by reference the responses as set forth in paragraphs 1 through 19 of this Answer as if fully set forth herein.

21. Admitted.

22. Admitted.

23. Denied.

24. Denied.

COUNT III:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '550 PATENT

25. EcoFactor incorporates by reference the responses as set forth in paragraphs 1 through 24 of this Answer as if fully set forth herein.

26. Admitted.

27. Admitted.

28. Denied.

29. Denied.

COUNT IV:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '488 PATENT

30. EcoFactor incorporates by reference the responses as set forth in paragraphs 1 through 29 of this Answer as if fully set forth herein.

31. Admitted.

32. Admitted.

33. Denied.

34. Denied.

PLAINTIFF'S PRAYER FOR RELIEF

35. EcoFactor denies the allegations and prayer for relief sought by Plaintiff.

AFFIRMATIVE DEFENSES

36. By and for its affirmative defenses, EcoFactor states as follows:

FIRST AFFIRMATIVE DEFENSE

(Failure To State A Claim)

37. The Complaint, and the claims for relief therein, fails to state any claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

(Improper Venue)

38. This district is not a convenient forum for the parties, witnesses, and the interests of justice, and this case should be transferred pursuant to 28 U.S.C. § 1404 to a different district court, such as the Western District of Texas Waco Division.

THIRD AFFIRMATIVE DEFENSE

(Unclean Hands)

39. Plaintiff's claims are barred (in whole or in part) by the doctrine of unclean hands.

FOURTH AFFIRMATIVE DEFENSE

(Laches)

40. Plaintiff's claims are barred (in whole or in part) by the doctrine of laches.

FIFTH AFFIRMATIVE DEFENSE

(Waiver)

41. Plaintiff's claims are barred (in whole or in part) by the doctrine of waiver.

SIXTH AFFIRMATIVE DEFENSE

(Estoppel)

42. Plaintiff's claims are barred (in whole or in part) by the doctrine of estoppel.

SEVENTH AFFIRMATIVE DEFENSE

(Infringement)

43. Plaintiff has infringed and continues to infringe U.S. Patent No. 8,019,567 (the "567 patent"); U.S. Patent No. 10,612,983 (the "983 patent"); U.S. Patent No. 8,596,550 (the "550 patent"); and U.S. Patent No. 8,886,488 (the "488 patent") (collectively the "Patents-In-Suit") by making, using, offering for sale, and/or importing products into the United States that embody or use the inventions claimed in the Patents-In-Suit.

44. Plaintiff has been and is inducing infringement of the Patents-In-Suit by actively and knowingly inducing others to make, use, sell, offer for sale, or import products into the United States that embody or use the inventions claimed in the Patents-In-Suit.

45. Plaintiff has been contributorily infringing and is continuing to contributorily infringe the Patents-In-Suit by selling or offering to sell products in the United States, knowing them to be especially made or especially adapted for practicing the invention of the Patents-In-Suit.

EIGHTH AFFIRMATIVE DEFENSE

(Validity)

46. The Patents-In-Suit are not invalid.

NINTH AFFIRMATIVE DEFENSE

(Enforceability)

47. The Patents-In-Suit are not unenforceable.

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