

**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.**

Before the Honorable David P. Shaw
Administrative Law Judge

In the Matter of

Inv. No. 337-TA-1185

CERTAIN SMART THERMOSTATS,
SMART HVAC SYSTEMS, AND
COMPONENTS THEREOF

JOINT CLAIM CONSTRUCTION CHART

Pursuant to the Procedural Schedule (Order No. 5) and Ground Rule 6.d (Order No. 6), Complainant EcoFactor, Inc. (“Complainant”); and Respondents Alarm.com Incorporated and Alarm.com Holdings, Inc. (collectively, “Alarm.com”); Daikin Industries, Ltd., Daikin America, Inc., and Daikin North America LLC (collectively, “Daikin”); ecobee Ltd. and ecobee, Inc. (collectively, “ecobee”); Google LLC (“Google”); Schneider Electric USA, Inc. and Schneider Electric SE (collectively, “Schneider”); and Vivint, Inc. (“Vivint”) (collectively, “Respondents”); and the Commission Investigative Staff (“Staff”) jointly submit these claim construction charts regarding U.S. Patent Nos. 8,131,497 (“the ’497 patent”); 8,423,322 (“the ’322 patent”); 8,498,753 (“the ’753 patent”); and 10,018,371 (“the ’371 patent”). The Parties identify undisputed claim terms (Table 1), disputed claim terms (Table 2), and significant or dispositive terms (List 1).

TABLE 1: AGREED-UPON CONSTRUCTION OR DISPOSITION

1. U.S. Patent No. 8,423,322

#	Claim Term	Agreed-Upon Construction or Disposition
1	“compare(s)” (claim 1)	“analyze to determine one or more similarities or differences between”

2. U.S. Patent No. 8,498,753

#	Claim Term	Agreed-Upon Construction or Disposition
1	“setpoint(s)” (claims 1, 9, 15)	“a temperature setting for a thermostat to achieve or maintain”
2	“intermediate setpoint” (claim 1)	“a temperature setting for a thermostat to achieve or maintain that is between the first internal temperature and the target temperature”
3	“forecasted temperature” / “forecasted” (claims 1, 9, 15)	“a predicted or expected future temperature”

3. U.S. Patent No. 10,018,371

#	Claim Term	Agreed-Upon Construction or Disposition
1	“compare” (claims 9, 17)	“analyze to determine one or more similarities or differences between”
2	“setpoint(s)” (claims 1, 9, 17)	“a temperature setting for a thermostat to achieve or maintain”
3	“automated setpoint” (claims 1, 9, 17)	“a computer-calculated temperature setting for a thermostat to achieve or maintain”

#	Claim Term	Agreed-Upon Construction or Disposition
4	“a difference value based on comparing at least one of the actual setpoints at the first time for the thermostatic controller to the first automated setpoint for the thermostatic controller” (claim 1)	“a value indicating the difference between at least one of the actual setpoints at the first time and the first automated setpoint for the thermostatic controller”

TABLE 2: DISPUTED CLAIM TERMS

1. U.S. Patent No. 8,131, 497 and U.S. Patent No. 8,423,322

#	Claim Term	EcoFactor's Proposed Construction	Staff's Proposed Construction	Respondents' Proposed Construction
1	"HVAC system" / "heating, ventilation, and air conditioning (HVAC) system" / "heating ventilation and air conditioning system" ('322 Patent, claims 1, 4, 5, 6, 7; '497 Patent, claims 1, 2, 4, 5, 7, 8, 9, 11)	No construction necessary	Plain and ordinary meaning, an example of which is: "heating, ventilation and/or cooling devices that transfer heat into or out of a structure/location"	"a group of components working together to move heat or remove heat from the conditioned [structure/location]."
2	"operational efficiency" / "operational efficiency of an HVAC system" / "operational efficiency of a heating, ventilation, and air conditioning (HVAC) system" / "operational efficiency of the HVAC system" ('322 Patent, claim 1; '497 Patent, claims 1, 7)	"energy or time to change inside temperature by any given amount for a set of one or more indoor or outdoor conditions"	"energy required by the HVAC system to change inside temperature by a given amount"	"energy required by the HVAC system to change inside temperature by a given amount over a given time for a set of indoor and outdoor conditions"

#	Claim Term	EcoFactor's Proposed Construction	Staff's Proposed Construction	Respondents' Proposed Construction
3	"measurements of outside temperatures" ('322 Patent, claims 1, 2) / "outside temperature measurements" ('497 Patent, claims 1, 7) / "outside temperatures" ('497 Patent, claims 2, 8)	"a measurement of the temperature outside (or external to) [the structure]"	Plain and ordinary meaning, an example of which is: "a measurement of the actual temperature at a location outside (or external to) [the structure]"	"a measurement of the actual temperature at a location outside (or external to) [the structure]"
4	"programmable thermostat" ('322 Patent, claims 3, 5; '497 Patent, claims 3, 5, 9, 11)	"thermostat that uses microprocessor-based circuitry to control a switch and operate based upon user-determined protocols for temperature and time"	"thermostat that uses microprocessor-based circuitry to control the switch and operate based upon user determined protocols for temperature vs. time"	"thermostat that uses microprocessor-based circuitry to control the switch and to store and operate based upon user-determined protocols for temperature vs. time"
5	"status of said HVAC system" ('322 Patent, claims 1, 7)	"operational state of said HVAC system"	Plain and ordinary meaning, an example of which is: "operational state of said HVAC system"	"operational state of the HVAC system, being either in an active state or an inactive state"

#	Claim Term	EcoFactor's Proposed Construction	Staff's Proposed Construction	Respondents' Proposed Construction
6	"one or more rates of change in temperature" ('497 Patent, claims 1, 7)	"the difference between two temperature measurements over a particular span of time between the measurements"	Plain and ordinary meaning, an example of which is: "the difference between two temperature measurements divided by the span of time between the measurements (i.e., $\Delta T/\Delta t$)"	"the difference between two temperature measurements divided by the span of time between the measurements (i.e., $\Delta T/\Delta t$)"
7	"status of the HVAC system is 'on'" / "status of the HVAC system is 'off'" ('497 Patent, claims 1, 7)	"the HVAC system is actively operating / the HVAC system is not actively operating"	"when the HVAC system is actively operating" / "when the HVAC system is not actively operating"	"when the HVAC system is influencing (heating or cooling) the temperature inside the structure" / "when the HVAC system is not influencing (heating or cooling) the temperature inside the structure"
8	"and to relate said calculated rates of change to said outside temperature measurements" / "where said calculated rates of change are related to said outside temperature measurements" ('497 Patent, claims 1, 7)	"the calculated rates of change are related to said outside temperature measurements"	"the calculated rates of change are correlated to said outside temperature measurements"	"the calculated rates of change are correlated to said outside temperature measurements"

#	Claim Term	EcoFactor's Proposed Construction	Staff's Proposed Construction	Respondents' Proposed Construction
9	"one or more processors" / "said one or more processors" ('497 Patent, claims 1, 2, and 4; '322 Patent, claims 1, 2, and 4)	No construction necessary	No construction necessary	"said one or more processors" means "the same one or more processors perform all of the associated functions in the claims"

2. U.S. Patent No. 8,498,753

#	Claim Term	EcoFactor's Proposed Construction	Staff's Proposed Construction	Respondents' Proposed Construction
1	"HVAC system" / "heating, ventilation, and air conditioning (HVAC) system" / "heating ventilation and air conditioning system" (claims 3, 4, 10, 16)	No construction necessary	Plain and ordinary meaning, an example of which is: "heating, ventilation and/or cooling devices that transfer heat into or out of a structure/location"	"a group of components working together to move heat or remove heat from the conditioned [structure/location]."
2	"external temperature" (claims 1, 9, and 15)	"temperature external to the structure"	"temperatures external to the structure"	"a measurement of the actual temperature at a location outside (or external to) [the structure]"
3	"thermostatic controller" (claims 1, 2, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 17, 18, 19, 20)	"thermostat controller"	"thermostat controller"	"thermostat"

#	Claim Term	EcoFactor's Proposed Construction	Staff's Proposed Construction	Respondents' Proposed Construction
4	"reducing the cycling time" / "minimizing the cycling time" (claims 1, 9, 15)	No construction necessary	a preamble term, and non-limiting; thus, no construction necessary. Or, if the ALJ determines that a construction is necessary: "cycling time": "an amount of time a component of the HVAC system actively operates in order to obtain an inside target temperature"	Indefinite
5	"thermal performance values" (claims 1, 9, 15)	"values indicating a rate of change of temperature in said structure in response to changes in outside temperatures"	"temperature and time data indicating the rate of change of temperature in a structure in response to changes in outside temperatures when the HVAC system is 'off'"	Indefinite as used in claim 15 "a calculated amount of time at which the inside temperature should change for given inside and outside temperatures when the HVAC system is 'off'"
6	"performance characteristic [of said/a/the climate control system/air conditioning system]" (claims 1, 9, 15)	"characteristic that is indicative of a capability to change inside temperature"	Indefinite	Indefinite

#	Claim Term	EcoFactor's Proposed Construction	Staff's Proposed Construction	Respondents' Proposed Construction
7	"historic external temperatures" (claims 1, 9, 15)	"temperatures external to the structure prior to the current time"	"temperatures external to the structure prior to the current time"	"temperature measurements taken outside said structure prior to the current time"
8	"remote processor" (claims 5-7, 11-13, 17-19) "at least one remote processor" / "said remote processor" (claims 5-7, 11-13, 17-19)	No construction necessary	No construction necessary	"said remote processor" means "the same at least one remote processor"

3. U.S. Patent No. 10,018,371

#	Claim Term	EcoFactor's Proposed Construction	Staff's Proposed Construction	Respondents' Proposed Construction
1	"HVAC system" / "heating, ventilation, and air conditioning (HVAC) system" / "heating ventilation and air conditioning system" (claims 1, 9, 17)	No construction necessary	Plain and ordinary meaning, an example of which is: "heating, ventilation and/or cooling devices that transfer heat into or out of a structure/location"	"a group of components working together to move heat or remove heat from the conditioned [structure/location]."
2	"thermostatic controller" (claims 1, 9, 17)	"thermostat controller"	"thermostat controller"	"thermostat"

#	Claim Term	EcoFactor's Proposed Construction	Staff's Proposed Construction	Respondents' Proposed Construction
3	"programmable communicating thermostat" (claims 17, 19-23)	"thermostat that uses microprocessor-based circuitry to control the switch and operate based upon user determined protocols for temperature and time, and that is configured to transmit or receive data"	"thermostat that uses microprocessor-based circuitry to control the switch and operate based upon user determined protocols for temperature vs. time, and that is configured to transmit or receive data"	No construction necessary
4	"actual setpoint" (claims 1, 9, 17)	"an actual temperature setting for a thermostat to achieve or maintain"	"a temperature setting for a thermostat to achieve or maintain as recorded at a thermostatic controller"	"a temperature setting for a thermostat to achieve or maintain recorded at a thermostatic controller"
5	"the difference value" (claim 17)	"a difference value"	Indefinite	Indefinite

LIST 1: IDENTIFICATION OF TOP TEN TERMS

The Parties identify the following 10 terms as being the most significant to the resolution of the case.

1. “operational efficiency of an HVAC system” (’322 Patent, claim 1; ’497 Patent, claims 1, 7)
2. “status of said HVAC system” (’322 Patent, claim 1)
3. “one or more rates of change in temperature” (’497 Patent, claims 1, 7)
4. “status of the HVAC system is ‘on’” / “status of the HVAC system is ‘off’ (’497 Patent, claims 1, 7)
5. “and to relate said calculated rates of change to said outside temperature measurements” / “where said calculated rates of change are related to said outside temperature measurements” (’497 Patent, claims 1, 7)
6. “performance characteristic [of said/a/the climate control system/air conditioning system]” (’753 Patent, claims 1, 9, 15)
7. “actual setpoint” (’371 Patent, claims 1, 9, 17)
8. “historic external temperatures” (’753 Patent, claims 1, 9, 15)
9. “measurements of outside temperatures” (’322 Patent, claims 1, 2) / “outside temperature measurements” (’497 Patent, claims 1, 7) / “outside temperatures” (’497 Patent, claims 2, 8) / “external temperature” (’753 patent, claim 1, 9, and 15)
10. “thermal performance values” (’753 Patent, claims 1, 9, 15)

LIST 1: SIGNIFICANT OR DISPOSITIVE TERMS

Complainant’s Position: The terms Respondents propose as indefinite are potentially dispositive of the claims in which they occur. EcoFactor does not anticipate that any other constructions will be dispositive based on the limited information currently available to it regarding Respondents’ positions and defenses.

Respondents' (Other than Google) Position: The terms Respondents propose as indefinite are dispositive of certain claims or all claims from a single patent as asserted against each individual Respondent. These include “reducing the cycling time” / “minimizing the cycling time” (’753 patent, claims 1, 9, 15); “thermal performance values” (’753 patent, claim 15); “performance characteristic [of said/a/the climate control system/air conditioning system]” (’753 patent, claims 1, 9, 15); “the difference value” (’371 patent, claim 17).

Respondent Google’s Position: The constructions of “operational efficiency of an HVAC system,” and “one or more rates of change in temperature” are dispositive for the ’497 patent. The constructions of “operational efficiency of an HVAC system,” and “status of said HVAC system” are each dispositive for the ’322 patent. The constructions of “thermal performance values,” “performance characteristic [of said/a/the climate control system/air conditioning system], and “reducing the cycling time” / “minimizing the cycling time” are each dispositive for the ’753 patent. The constructions of “actual setpoint,” and “the difference value” are dispositive for the ’371 patent.

Dated: March 6, 2020

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the **JOINT PROPOSED CLAIM CONSTRUCTION CHART** was served on the following, in the manner indicated below, this 6TH day of March 2020:

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