

Appendix A-8

Invalidity Claim Chart for U.S. Patent No. 8,131,497 (“the ’497 patent”)

U.S. Patent No. 4,897,798 (“Cler”)

The chart below discloses how prior art references identified by Respondent disclose, either expressly or inherently, and/or render obvious each of the asserted claims. The citations provided are exemplary and do not necessarily include each and every disclosure of the limitation in the references. Respondent has cited the most relevant portions of the identified prior art. Other portions of the identified prior art may additionally disclose, either expressly or inherently, and/or render obvious one or more limitations of the asserted claims. To provide context or aid in understanding the prior art and the state of the art at the time of the alleged invention, Respondent reserves the right to rely on: (1) uncited portions of the identified prior art; (2) other prior art not identified herein; (3) references that show the state of the art (irrespective of whether such references themselves qualify as prior art to the asserted patents); (4) factual testimony from the inventors or authors of the prior art references, or purveyors of prior art devices; and/or (5) expert testimony.

Citations to particular drawing or figure in the accompanying charts should be understood to include the description of the drawing or figure, as well as any text associated with the drawing or figure. Citations to particular text concerning a drawing or figure, should also be understood to encompass that drawing or figure as well. The identified prior art expressly and/or inherently discloses the features of the asserted claims under all proposed constructions of the asserted claims. To establish the inherency of certain features of the prior art to invalidate the asserted claims, Respondent may rely on cited or uncited portions of the prior art, other documents, factual testimony, and expert testimony.

Discovery is still ongoing, and Respondent reserves its right to supplement its contentions with additional evidence as discovery continues.

Claims 1-12 of the ’497 patent are anticipated and/or rendered obvious by Cler alone or in combination with:

- (1) U.S. Patent No. 6,789,739 (“Rosen”)
- (2) WO 02/37332 (“Ryan”)
- (3) One or more of the references cited in this chart, in Appendices A-1 to A-16, and/or identified in Section V.B of Respondents’ Invalidity Contentions

Cler was filed on December 8, 1986 and issued on January 30, 1990. Cler is prior art under at least pre-AIA 35 U.S.C. § 102 (a), (b), and (e).

Rosen was filed on November 4, 2002, and published on September 14, 2004. Rosen is prior art under at least pre-AIA 35 U.S.C. § 102(a), (b), and (e).

Ryan was published on May 10, 2002. Ryan is prior art under at least pre-AIA 35 U.S.C. § 102(a), and (b).

<u>'497 patent</u>	
<u>Claim 1</u>	
[1pre] A system for calculating a value for the operational efficiency of a heating, ventilation, and air conditioning (HVAC) system comprising:	To the extent that the preamble is limiting, Cler discloses, expressly or inherently, “[a] system for calculating a value for the operational efficiency of a heating, ventilation, and air conditioning (HVAC) system” under any proposed construction: <i>See, e.g.</i>, Cler at 2:56-63: Control element 103 is a processor which uses the data provided by variable predictor 102 to control the operation of HVAC System 101 to thereby regulate the environment throughout building 110. Control element 103 also analyzes the data provided by variable predictor 102 to determine the operational efficiency of HVAC system 101. <i>See, e.g.</i>, Cler at 8:58-63: This description of FIG. 1 illustrates in general terms the operational steps taken by the adaptive environment control system to regulate the operation of HVAC system 101 to provide optimal start/stop function, as well as a maintenance function to monitor the operational efficiency of HVAC system 101.
[1a] at least one HVAC control system that receives temperature measurements from at least a first location conditioned by at least one HVAC system;	Cler discloses, expressly or inherently, “at least one HVAC control system that receives temperature measurements from at least a first location conditioned by at least one HVAC system” under any proposed construction: <i>See, e.g.</i>, Cler at 2:44-54: The adaptive environment control system of the present invention is illustrated in block diagram form in FIG. 1. This system is located in a building 110 and consists of a number of control frelements 102 to 105-n in