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Paper 6
Date Entered: February 3, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HONEYWELL INTERNATIONAL, INC.,
Petitioner,

v.

ALLURE ENERGY, INC.,
Patent Owner.

Case IPR2016-01605
Patent 8,498,749 B2

Before BART A. GERSTENBLITH, KEVIN W. CHERRY, and SCOTT C. MOORE, *Administrative Patent Judges*.

CHERRY, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

Petitioner, Honeywell International, Inc., filed a Petition requesting an *inter partes* review of claims 1–9 of U.S. Patent No. 8,498,749 B2 (Ex. 1002, "the '749 patent") under 35 U.S.C. §§ 311–319. Paper 2 ("Petition" or "Pet."). Patent Owner, Allure Energy, Inc., filed a Preliminary Response. Paper 5 ("Prelim. Resp."). Under 35 U.S.C. § 314, an *inter partes* review may not be instituted "unless . . . the information presented in the petition . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition."

For the reasons that follow, we institute an *inter partes* review of claims 1–9 of the '749 patent.

A. Related Proceedings

According to Petitioner and Patent Owner, the '749 patent is not currently at issue in any district court cases or other proceedings before the Office. Pet. 1; Paper 4, 1.

B. The '749 Patent

The '749 patent relates to home systems, and more particularly to an energy management system and method. Ex. 1002, 1:48–50, Figs. 2, 7, 10. Figure 2 is reproduced below:

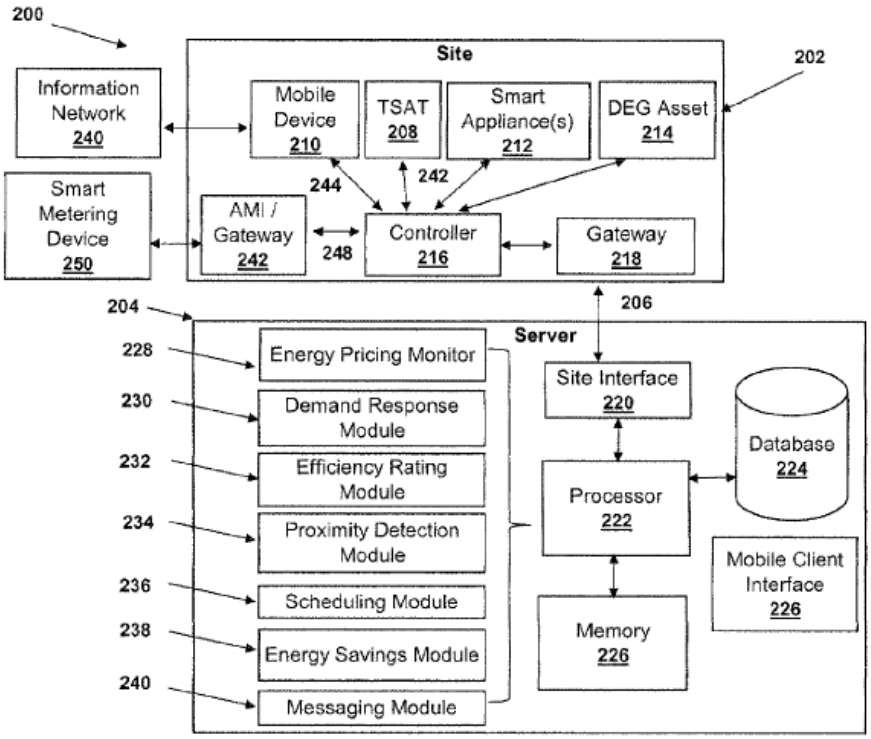

FIG. 2

Figure 2 illustrates an energy management system. *Id.* at 7:5–7. System 200 is configured for use at site 202. *Id.* at 7:5–12. Proximity detection module 234 can detect a distance between mobile device 210 and site 202. *Id.* at 12:66–13:2. Proximity detection module 234 can further detect a current thermostat setting and can determine how much to adjust the thermostat's temperature based on how close the user is to the site. *Id.* at 13:12–22. The system can be configured to employ multiple user schedules that may be linked to multiple mobile devices. *Id.* at 13:13–51. For example, a second user schedule can be used or not used based on a distance a second mobile device may be from site 202. *Id.* at 14:3–5. The system can include a user interface that can be accessed using a mobile device, desktop computer, or other computing device. *See, e.g.*, *id.* at 48:53–67. The user interface can indicate current inside temperature, current thermostat set-point, and display

a proximity detection selector configured to enable proximity detection of one or more mobile devices associated with a residential site. *See, e.g.*, *id.* at 50:50–60.

C. Illustrative Claim

Claim 1, a method claim, is the only independent claim of the '749 patent. Claims 2–9 depend, either directly or indirectly, from claim 1. Claim 1 is illustrative of the subject matter in this proceeding and is reproduced below.

> 1. A method of managing a site in a mobile environment, comprising:
>
> providing a web-based control selector within a hosted web application accessible using a computer and a mobile device, wherein the hosted web application is stored using a server;
>
> providing a mobile-based control selector within a user interface of the mobile device, the web-based control selector and the mobile-based control selector in communication with a detection module in order to manage at least one network device at a site;
>
> allowing each of the web-based and mobile-based control selectors to be toggled between an enabled setting and a disabled setting;
>
> enabling the detection module in response to the enabled setting of at least one of the web-based control selector and the mobile-based control selector;
>
> determining a location of the mobile device using the enabled detection module;
>
> altering an operating condition of the at least one network device using the enabled detection module, wherein

the altering of the operating condition is initiated based on the location of the mobile device;

disabling the detection module in response to the disabled setting of the control selector.

Id. at 66:54–67:10.

D. Evidence Relied Upon

Petitioner relies upon the following prior art references.

Rosenblatt	US 2010/0081375 A1	Apr. 1, 2010[1]	Ex. 1004
Schlage	WO 2009/088901 A1	July 16, 2009[2]	Ex. 1005
Trundle	US 8,350,697 B2	Jan. 8, 2013[3]	Ex. 1006
Ehlers	US 2004/0117330 A1	June 17, 2004[4]	Ex. 1008

Petitioner contends that Rosenblatt, Schlage, Trundle, and Ehlers are each prior art to the '749 patent under pre-AIA 35 U.S.C. § 102(e). Pet. 4. Patent Owner does not, at this stage, challenge the prior art status of any reference.

Petitioner also relies upon the Declaration of Edwin Selker, dated August 12, 2016. Ex. 1001.

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[1] Rosenblatt was filed September 30, 2008. Ex. 1004, at [22].
[2] Schlage claims an international filing date (in the United States) of December 31, 2008.
[3] Trundle claims priority to a provisional application filed May 18, 2009. Ex. 1006, at [60].
[4] Ehlers was filed July 28, 2003. Ex. 1008, at [22].

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