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Table with 5 columns: APPLICATION NUMBER, FILING OR 371(C) DATE, FIRST NAME APPLICANT, ATTY DOCKET NO/TITLE, REQUEST ID. Values: 12/502,064, 07/13/2009, John Douglas Steinberg, EFACT.011A, 99798

Acknowledgement of Loss of Entitlement to Entity Status Discount

The entity status change request below filed through Private PAIR on 11/14/2019 has been accepted.

CERTIFICATIONS:

Change of Entity Status:
X Applicant changing to regular undiscounted fee status.
NOTE: Checking this box will be taken to be notification of loss of entitlement to small or micro entity status, as applicable.

This portion must be completed by the signatory or signatories making the entity status change in accordance with 37 CFR 1.4(d)(4).

Table with 2 columns: Label, Value. Rows: Signature: /John R. King/, Name: John R. King, Registration Number: 34362



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| APPLICATION NO. | ISSUE DATE | PATENT NO. | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|------------|------------|---------------------|------------------|
| 12/502,064 | 05/15/2012 | 8180492 | EFACT.011A | 5514 |

20995 7590 04/25/2012
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

ISSUE NOTIFICATION

The projected patent number and issue date are specified above.

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment is 0 day(s). Any patent to issue from the above-identified application will include an indication of the adjustment on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Application Assistance Unit (AAU) of the Office of Data Management (ODM) at (571)-272-4200.

APPLICANT(s) (Please see PAIR WEB site <http://pair.uspto.gov> for additional applicants):

John Douglas Steinberg, Millbrae, CA;

| | | |
|--|----------------------|-------------------------|
| INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Application No. | 12/502064 |
| | Filing Date | 07-13-2009 |
| | First Named Inventor | Steinberg, John Douglas |
| | Art Unit | 3744 |
| (Multiple sheets used when necessary) | Examiner | |
| SHEET 2 OF 4 | Attorney Docket No. | JSTEIN.011A |

| U.S. PATENT DOCUMENTS | | | | | |
|---|----------|---|--------------------------------|-------------------------------|--|
| Examiner Initials | Cite No. | Document Number Number - Kind Code (if known) Example: 1,234,567 B1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear |
| | 30 | 6,695,218 | 02-24-2004 | Fleckenstein | |
| | 31 | 6,726,113 | 04-27-2004 | Guo | |
| | 32 | 6,731,992 | 05-04-2004 | Ziegler | |
| | 33 | 6,734,806 | 05-11-2004 | Cratsley | |
| | 34 | 6,772,052 | 08-03-2004 | Amundsen | |
| | 35 | 6,785,592 | 08-31-2004 | Smith | |
| | 36 | 6,785,630 | 08-31-2004 | Kolk | |
| | 37 | 6,789,739 | 09-14-2004 | Howard Rosen | |
| | 38 | 6,853,959 | 02-08-2005 | Ikeda, et al. | |
| | 39 | 6,868,293 | 03-15-2005 | Schurr | |
| | 40 | 6,868,319 | 03-15-2005 | Kipersztok, et al. | |
| | 41 | 6,882,712 | 04-19-2005 | Iggulden, et al. | |
| | 42 | 6,889,908 | 05-10-2005 | Crippen, et al. | |
| 5-10-2005 | 43 | 6,891,838 | 10-10-2005 | Petite, et al. | |
| | 44 | 6,991,029 | 01-31-2006 | Orfield, et al. | |
| | 45 | 7,009,493 | 03-07-2006 | Howard | |
| | 46 | 7,031,880 | 04-18-2006 | Seem, et al. | |
| | 47 | 7,039,532 | 05-02-2006 | Hunter | |
| Change(s) applied to document, LAS/ 4/4/2012 | 48 | 7,089,088 | 08-08-2006 | Terry, et al. | |
| | 49 | 7,130,719 | 10-31-2006 | Ehlers, et al. | |
| | 50 | 7,130,832 | 10-31-2006 | Bannai, et al. | |
| | 51 | 7,167,079 | 01-23-2007 | Smyth, et al. | |
| | 52 | 7,187,986 | 03-06-2007 | Johnson, et al. | |
| | 53 | 7,205,892 | 04-17-2007 | Luebke, et al. | |
| | 54 | 7,215,746 | 05-08-2007 | Iggulden, et al. | |
| | 55 | 7,216,015 | 05-08-2007 | Poth, Robert J. | |
| | 56 | 7,231,424 | 06-11-2007 | Bodin, et al. | |
| | 57 | 7,232,075 | 06-19-2007 | Rosen | |
| | 58 | 2003/0040934 A1 | 02-27-2003 | Skidmore, et al. | |

| | |
|--------------------|-----------------|
| Examiner Signature | Date Considered |
|--------------------|-----------------|

*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
12/502,064 07/13/2009 John Douglas Steinberg EFACT.011A 5514

7590 04/19/2012
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER

ROBERTSON, DAVID

ART UNIT PAPER NUMBER

2127

NOTIFICATION DATE DELIVERY MODE

04/19/2012

ELECTRONIC

NOTICE OF NON-COMPLIANT INFORMATION DISCLOSURE STATEMENT

An Information Disclosure Statement (IDS) filed 4-16-12 in the above-identified application fails to meet the requirements of 37 CFR 1.97(d) for the reason(s) specified below. Accordingly, the IDS will be placed in the file, but the information referred to therein has not been considered.

The IDS is not compliant with 37 CFR 1.97(d) because:

- The IDS lacks a statement as specified in 37 CFR 1.97(e).
The IDS lacks the fee set forth in 37 CFR 1.17(p).
The IDS was filed after the issue fee was paid. Applicant may wish to consider filing a petition to withdraw the application from issue under 37 CFR 1.313(c) to have the IDS considered. See MPEP 1308.

Handwritten signature

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

TRANSMITTAL OF SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Applicant : John Douglas Steinberg
App. No : 12/502,064
Filed : July 13, 2009
For : SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC
DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY
MANAGEMENT SYSTEM
Examiner : David Robertson
Art Unit : 2121
Conf No. : 5514

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Supplemental Information Disclosure Statement is being filed to submit the enclosed PTO/SB/08 Equivalent listing five (5) references, two of which are enclosed/attached.

Pursuant to 37 C.F.R § 1.97(g) and (h), Applicants make no representation that the information is considered to be material to patentability. Additionally, inclusion on this list is not an admission that any of the cited documents are prior art in this application. Further, Applicants make no representation regarding the completeness of this list, nor represent that better art does not exist.

If this Supplemental IDS can be considered, Appellants authorize the Office to charge the relevant fee, if any, to Deposit Account 11-1410. If the IDS cannot be considered, Appellants request that it be placed in the file in accordance with Rule 1.97(i).

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 4-16-2012

By: John R. King

John R. King
Registration No. 34,362
Attorney of Record
Customer No. 20,995
(949) 760-0404

| | | |
|--|----------------------|-------------------------|
| INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Application No. | 12/502064 |
| | Filing Date | 07-13-2009 |
| | First Named Inventor | Steinberg, John Douglas |
| | Art Unit | 2121 |
| <i>(Multiple sheets used when necessary)</i> | Examiner | Robertson, David |
| SHEET 1 OF 1 | Attorney Docket No. | EFACT.011A |

| U.S. PATENT DOCUMENTS | | | | | |
|-----------------------|----------|--|--------------------------------|-------------------------------|--|
| Examiner Initials | Cite No. | Document Number <i>Number - Kind Code (if known)</i> Example: 1,234,567 B1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear |
| | 1 | 4,475,685 | 10-1984 | Grimado, et al. | |
| | 2 | 2004/0176880 | 09-09-2004 | Obradovich, et al. | |
| | 3 | 2006/0214014 | 09-28-2006 | Bash, et al. | |

| FOREIGN PATENT DOCUMENTS | | | | | | |
|--------------------------|----------|---|-----------------------------------|----------------------------------|--|----------------|
| Examiner Initials | Cite No. | Foreign Patent Document <i>Country Code-Number-Kind Code</i> Example: JP 1234567 A1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear | T ¹ |
| | | | | | | |

| NON PATENT LITERATURE DOCUMENTS | | | |
|---------------------------------|----------|---|----------------|
| Examiner Initials | Cite No. | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T ¹ |
| | 4 | Bourhan, et al., "Cynamic model of an HVAC system for control analysis", Elsevier 2004 | |
| | 5 | Written Opinion and Search Report for PCT/US2011/032537, dated 12/12/11 (our reference EFACT.012WO) | |

13092139:ad
041012

| | |
|---|-----------------|
| Examiner Signature | Date Considered |
| <p>*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.</p> | |

900. Place a check mark in this area when an English language Translation is attached.

PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

To:

KING JOHN R.

KNOBBE, MARTENS, OLSON & BEAR, LLP 2040 MAIN
STREET, 14TH FLOOR IRVINE CA 92614 USA**PCT****NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL SEARCH REPORT AND
THE WRITTEN OPINION OF THE INTERNATIONAL
SEARCHING AUTHORITY, OR THE DECLARATION**

(PCT Rule 44.1)

Date of mailing
(day/month/year) 12 DECEMBER 2011 (12.12.2011)

Applicant's or agent's file reference

EFACT012WO

FOR FURTHER ACTION See paragraphs 1 and 4 below

International application No.

PCT/US2011/032537International filing date
(day/month/year)**14 APRIL 2011 (14.04.2011)**

Applicant

ECOFACOR, INC. et al

1. The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.

Filing of amendments and statement under Article 19:

The applicant is entitled, if he so wishes, to amend the claims of the international application (see Rule 46):

When? The time limit for filing such amendments is normally two months from the date of transmittal of the international search report.**Where?** Directly to the International Bureau of WIPO, 34 chemin des Colombettes
1211 Geneva 20, Switzerland, Facsimile No.: +41 22 338 82 70**For more detailed instructions, see PCT Applicant's Guide, International Phase, paragraphs 9.004 - 9.011.**

2. The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.
3. **With regard to any protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:**
 the protest together with the decision thereon has been transmitted to the International Bureau together with any request to forward the texts of both the protest and the decision thereon to the designated Offices.
 no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. Reminders

The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. Following the expiration of 30 months from the priority date, these comments will also be made available to the public.

Shortly after the expiration of **18 months** from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau before the completion of the technical preparations for international publication (Rules 90bis.1 and 90bis.3).

Within **19 months** from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase **until 30 months** from the priority date (in some Offices even later); otherwise, the applicant must, **within 20 months** from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

In respect of other designated Offices, the time limit of **30 months** (or later) will apply even if no demand is filed within 19 months.

For details about the applicable time limits, Office by Office, see www.wipo.int/pct/en/texts/time_limits.html and the PCT Applicant's Guide, National Chapters.

Name and mailing address of the ISA/KR

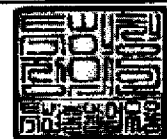
Korean Intellectual Property Office
Government Complex-Daejeon, 189 Cheongsa-ro,
Seo-gu, Daejeon 302-701, Republic of Korea

Facsimile No. 82-42-472-7140

Authorized officer

COMMISSIONER

Telephone No. 82-42-481-8755



Form PCT/ISA/220 (July 2010)

RECEIVED
IRVINE INT.

DEC 19 2011

**KNOBBE, MARTENS,
OLSON & BEAR, LLP**

*** Attention**

Copies of the documents cited in the international search report can be searched in the following Korean Intellectual Property Office English website for three months from the date of mailing of the international search report.

<http://www.kipo.go.kr/en/> => PCT Services => PCT Services

ID : PCT international application number

PW : **4ZMSLLZF**

Inquiries related to PCT International Search Report or Written Opinion prepared by KIPO as an International Searching Authority can be answered not only by KIPO but also through IPKC (Intellectual Property Korea Center), located in Vienna, VA, which functions as a PCT Help Desk for PCT applicants.

Homepage: <http://www.ipkcenter.com>

Email: ipkc@ipkcenter.com

Phone: +1 703 388 1066

Fax: +1 703 388 1084

PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

| | | |
|--|---|--|
| Applicant's or agent's file reference EFACT012WO | FOR FURTHER ACTION | see Form PCT/ISA/220 as well as, where applicable, item 5 below. |
| International application No. PCT/US2011/032537 | International filing date (day/month/year) 14 APRIL 2011 (14.04.2011) | (Earliest) Priority Date (day/month/year) 26 MAY 2010 (26.05.2010) |
| Applicant ECOFACOR, INC. et al | | |

This International search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of 4 sheets.

It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the report

a. With regard to the language, the international search was carried out on the basis of:

- the international application in the language in which it was filed
- a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b))

- b. This international search report has been established taking into account the rectification of an obvious mistake authorized by or notified to this Authority under Rule 91 (Rule 43.6bis(a)).
- c. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, see Box No. I.

2. Certain claims were found unsearchable (See Box No. II)

3. Unity of invention is lacking (See Box No. III)

4. With regard to the title,

- the text is approved as submitted by the applicant.
- the text has been established by this Authority to read as follows:

5. With regard to the abstract,

- the text is approved as submitted by the applicant.
- the text has been established, according to Rule 38.2, by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. With regard to the drawings,

- a. the figure of the drawings to be published with the abstract is Figure No. 7
 - as suggested by the applicant.
 - as selected by this Authority, because the applicant failed to suggest a figure.
 - as selected by this Authority, because this figure better characterizes the invention.
- b. none of the figure is to be published with the abstract.

A. CLASSIFICATION OF SUBJECT MATTER*F24F 11/02(2006.01)i, H04Q 9/04(2006.01)i*

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

F24F 11/02; G06F 17/00; G05D 23/00; F25B 9/00

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Korean utility models and applications for utility models
Japanese utility models and applications for utility models

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

eKOMPASS(KIPO internal) & Keywords: mobile, geographic, location, temperature

C. DOCUMENTS CONSIDERED TO BE RELEVANT

| Category* | Citation of document, with indication, where appropriate, of the relevant passages | Relevant to claim No. |
|-----------|---|-----------------------|
| A | US 2006-0214014 A1 (CULLEN BASH et al.) 28 September 2006 See Abstract | 1-22 |
| A | US 2004-0176880 A1 (MICHAEL L. OBRADOVICH et al.) 09 September 2004 See Column 124-126 | 1-22 |

 Further documents are listed in the continuation of Box C. See patent family annex.

* Special categories of cited documents:

"A" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier application or patent but published on or after the international filing date

"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art

"&" document member of the same patent family

Date of the actual completion of the international search

12 DECEMBER 2011 (12.12.2011)

Date of mailing of the international search report

12 DECEMBER 2011 (12.12.2011)

Name and mailing address of the ISA/KR

Korean Intellectual Property Office
Government Complex-Daejeon, 189 Cheongsu-ro,
Seo-gu, Daejeon 302-701, Republic of Korea

Facsimile No. 82-42-472-7140

Authorized officer

JANG, GIJEONG

Telephone No. 82-42-481-5498



INTERNATIONAL SEARCH REPORT

Information on patent family members

International application No.

PCT/US2011/032537

| Patent document cited in search report | Publication date | Patent family member(s) | Publication date |
|--|------------------|-------------------------|------------------|
| US 2006-0214014 A1 | 28.09.2006 | US 7640760 B2 | 05.01.2010 |
| US 2004-0176880 A1 | 09.09.2004 | AT 356734 T | 15.04.2007 |
| | | AT 399110 T | 15.07.2008 |
| | | AU 6245398 A | 26.08.1998 |
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| | | CA 2283843 A1 | 13.08.1998 |
| | | CA 2283843 C | 20.11.2007 |
| | | CA 2596489 A1 | 13.08.1998 |
| | | DE 69837318 D1 | 16.10.2008 |
| | | EP 0956219 A2 | 17.11.1999 |
| | | EP 0956219 A2 | 30.10.2002 |
| | | EP 0956219 A4 | 24.01.2001 |
| | | EP 0956219 B1 | 25.06.2008 |
| | | JP 2002-505631 A | 19.02.2002 |
| | | JP 2002-505631 T | 19.02.2002 |
| | | JP 2002-505631 T | 19.02.2002 |
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| | | US 2001-0020202 A1 | 06.09.2001 |
| | | US 2001-0021887 A1 | 13.09.2001 |
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| | | US 2002-0156555 A1 | 24.10.2002 |
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| | | US 2003-0004616 A1 | 02.01.2003 |
| | | US 2004-0162645 A1 | 19.08.2004 |
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| | | US 2005-0203674 A1 | 15.09.2005 |
| | | US 2006-0200285 A1 | 07.09.2006 |
| | | US 2010-0175014 A1 | 08.07.2010 |
| | | US 6175782 B1 | 16.01.2001 |
| | | US 6233506 B1 | 15.05.2001 |
| | | US 6282464 B1 | 28.08.2001 |
| | | US 6330497 B1 | 11.12.2001 |
| | | US 6438465 B2 | 20.08.2002 |
| | | US 6449535 B1 | 10.09.2002 |
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| | | US 6542794 B2 | 01.04.2003 |
| | | US 6542795 B2 | 01.04.2003 |
| | | US 6577928 B2 | 10.06.2003 |
| | | US 6587758 B2 | 01.07.2003 |
| | | US 6587759 B2 | 01.07.2003 |
| | | US 6859687 B2 | 22.02.2005 |
| | | US 6922616 B2 | 26.07.2005 |

INTERNATIONAL SEARCH REPORT

Information on patent family members

International application No.

PCT/US2011/032537

| Patent document cited in search report | Publication date | Patent family member(s) | Publication date |
|---|---------------------|----------------------------|---------------------|
| | | US 7062362 B2 | 13.06.2006 |
| | | US 7124004 B2 | 17.10.2006 |
| | | US 7171291 B2 | 30.01.2007 |
| | | US 7499778 B2 | 03.03.2009 |
| | | WO 98-34812 A2 | 13.08.1998 |
| | | WO 98-34812A2 | 13.08.1998 |
| | | WO 98-34812A3 | 05.11.1998 |
| | | WO 98-34812A3 | 05.11.1998 |

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
KING JOHN R.

KNOBBE, MARTENS, OLSON & BEAR, LLP 2040 MAIN
STREET, 14TH FLOOR IRVINE CA 92614 USA

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing
(day/month/year) **12 DECEMBER 2011 (12.12.2011)**

Applicant's or agent's file reference
EFACT012WO

FOR FURTHER ACTION
See paragraph 2 below

| | | |
|---|---|---|
| International application No. PCT/US2011/032537 | International filing date (day/month/year) 14 APRIL 2011 (14.04.2011) | Priority date(day/month/year) 26 MAY 2010 (26.05.2010) |
|---|---|---|

International Patent Classification (IPC) or both national classification and IPC

F24F 11/02(2006.01)i, H04Q 9/04(2006.01)l

Applicant

ECOFACOR, INC. et al

1. This opinion contains indications relating to the following items:



- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

| | | |
|---|---|---|
|  <p>Name and mailing address of the ISA/KR Korean Intellectual Property Office Government Complex-Daejeon, 189 Cheongsu-ro, Seo-gu, Daejeon 302- 701, Republic of Korea Facsimile No. 82-42-472-7140</p> | Date of completion of this opinion 12 DECEMBER 2011 (12.12.2011) | Authorized officer JANG, GI JEONG Telephone No.82-42-481-5498 |
| |  | |

Form PCT/ISA/237 (cover sheet) (July 2011)

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US2011/032537

Box No. 1 Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of:

- the international application in the language in which it was filed
- a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b))

2. This opinion has been established taking into account the rectification of an obvious mistake authorized by or notified to this Authority under Rule 91 (Rule 43bis.1(a))

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, this opinion has been established on the basis of:

a. a sequence listing filed or furnished

- on paper
- in electronic form

b. time of filing or furnishing

- contained in the international application as filed.
- filed together with the international application in electronic form.
- furnished subsequently to this Authority for the purposes of search.

4. In addition, in the case that more than one version or copy of a sequence listing has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

5. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US2011/032537

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | | |
|-------------------------------|--------|------|-----|
| Novelty (N) | Claims | 1-22 | YES |
| | Claims | NONE | NO |
| Inventive step (IS) | Claims | 1-22 | YES |
| | Claims | NONE | NO |
| Industrial applicability (IA) | Claims | 1-22 | YES |
| | Claims | NONE | NO |

2. Citations and explanations :

Reference is made to the following documents:

D1: US 2006-0214014 A1 (CULLEN BASH et al.) 28 September 2006

D2: US 2004-0176880 A1 (MICHAEL L. OBRADOVICH et al.) 09 September 2004

1. Novelty and Inventive step

1.1 Claims 1 and 12

The subject matter of claims 1 and 12 differs from the prior art documents of D1-D2 in that the prior art documents do not disclose a adjusting temperature setpoint comprising a mobile location and climate control devices. And it is not obvious to a person skilled in the art by the documents, taken alone or in combination.

Therefore, the subject matter of claims 1 and 12 meets the requirements of PCT Article 33(2) and (3) with respect to novelty and inventive step.

1.2 Claims 2-11 and 13-22

Claims 2-11 and 13-22 are dependent on 1 and 12.

Therefore, the subject matter of claims 2-11 and 13-22 meets the requirements of PCT Article 33(2) and (3) with respect to novelty and inventive step automatically.

2. Industrial Applicability

The subject matter of claims 1-22 is industrially applicable under PCT Article 33(4).

Electronic Patent Application Fee Transmittal

| | |
|---|--|
| Application Number: | 12502064 |
| Filing Date: | 13-Jul-2009 |
| Title of Invention: | SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM |
| First Named Inventor/Applicant Name: | John Douglas Steinberg |
| Filer: | John R. King/Amy Durrant |
| Attorney Docket Number: | EFACT.011A |

Filed as Small Entity

Utility under 35 USC 111(a) Filing Fees

| Description | Fee Code | Quantity | Amount | Sub-Total in USD(\$) |
|--|----------|----------|--------|----------------------|
| Basic Filing: | | | | |
| Pages: | | | | |
| Claims: | | | | |
| Miscellaneous-Filing: | | | | |
| Petition: | | | | |
| Patent-Appeals-and-Interference: | | | | |
| Post-Allowance-and-Post-Issuance: | | | | |
| Utility Appl issue fee | 2501 | 1 | 870 | 870 |

Extension-of-Time:

ecobee, IPR2021-01052

Ex.1008, Page 18 of 282

| Description | Fee Code | Quantity | Amount | Sub-Total in USD(\$) |
|--------------------------|----------|----------|--------|----------------------|
| Miscellaneous: | | | | |
| Total in USD (\$) | | | | 870 |

Electronic Acknowledgement Receipt

| | |
|---|--|
| EFS ID: | 12553240 |
| Application Number: | 12502064 |
| International Application Number: | |
| Confirmation Number: | 5514 |
| Title of Invention: | SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM |
| First Named Inventor/Applicant Name: | John Douglas Steinberg |
| Customer Number: | 20995 |
| Filer: | John R. King/Daniela Lopez |
| Filer Authorized By: | John R. King |
| Attorney Docket Number: | EFACT.011A |
| Receipt Date: | 16-APR-2012 |
| Filing Date: | 13-JUL-2009 |
| Time Stamp: | 18:42:32 |
| Application Type: | Utility under 35 USC 111(a) |

Payment information:

| | |
|--|-------------------------------|
| Submitted with Payment | yes |
| Payment Type | Credit Card |
| Payment was successfully received in RAM | \$870 |
| RAM confirmation Number | 5868 |
| Deposit Account | 111410 |
| Authorized User | KNOBBE MARTENS OLSON AND BEAR |

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

Charge any Additional Fees required under 37 C.F.R. Section 1.16 (National application filing, search, and examination fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.17 (Patent application and reexamination processing fees)

ecobee, IPR2021-01052

| File Listing: | | | | | |
|-------------------------------------|--|-------------------------|--|-------------------------|-------------------------|
| Document Number | Document Description | File Name | File Size(Bytes)/ Message Digest | Multi Part /.zip | Pages (if appl.) |
| 1 | Issue Fee Payment (PTO-85B) | EFACT-011A_issuefee.pdf | 105040 ae89f096589b32b75e25e70538d0aebfd4154a8 | no | 1 |
| Warnings: | | | | | |
| Information: | | | | | |
| 2 | | EFACT-011A_ids.pdf | 90900 8a9b4a1fa8ce680285a9c6bdb3aef9c4c1234015 | yes | 2 |
| | Multipart Description/PDF files in .zip description | | | | |
| | Document Description | | Start | End | |
| | Transmittal Letter | | 1 | 1 | |
| | Information Disclosure Statement (IDS) Form (SB08) | | 2 | 2 | |
| Warnings: | | | | | |
| Information: | | | | | |
| 3 | Non Patent Literature | EFACT-011A_REF4.pdf | 677648 8b5907a19d056c34acc79374dec4b726b6981e39 | no | 17 |
| Warnings: | | | | | |
| Information: | | | | | |
| 4 | Non Patent Literature | EFACT-011A_REF5.pdf | 342266 ad380e35af8a8ee5d7371d495fd1525d51ed2c09 | no | 10 |
| Warnings: | | | | | |
| Information: | | | | | |
| 5 | Fee Worksheet (SB06) | fee-info.pdf | 30696 464b608af61f5686f810c49b7b3827f018757f2a | no | 2 |
| Warnings: | | | | | |
| Information: | | | | | |
| Total Files Size (in bytes): | | | 1246550 | | |

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

| | | | |
|--|----------------------|-------------------------|------------------|
| INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Application No. | 12/502064 | |
| | Filing Date | 07-13-2009 | |
| | First Named Inventor | Steinberg, John Douglas | |
| | Art Unit | 2121 | |
| <i>(Multiple sheets used when necessary)</i> | | Examiner | Robertson, David |
| SHEET 1 OF 1 | | Attorney Docket No. | EFACT.011A |

| U.S. PATENT DOCUMENTS | | | | | |
|-----------------------|----------|---|--------------------------------|--------------------------------|--|
| Examiner Initials | Cite No. | Document Number Number - Kind Code (if known) Example: 1,234,567 B1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear |
| | 1 | 7,356,384 | 04-2008 | Gull, et al. | |
| | 2 | 7,784,704 | 08-31-2010 | Harter | |
| | 3 | 7,848,900 | 12-07-2010 | Steinberg, John Douglas et al. | |
| | 4 | 7,894,943 | 02-22-2011 | Sloup et al. | |
| | 5 | 2009/0240381 | 09-2009 | Lane | |
| | 6 | 2009/0281667 | 11-2009 | Masui, et al. | |
| | 7 | 2010/0019052 | 01-2010 | Yip | |
| | 8 | 2010/0070086 | 03-2010 | Harrod, et al. | |
| | 9 | 2010/0070089 | 03-2010 | Harrod, et al. | |
| | 10 | 2010/0070093 | 03-2010 | Harrod, et al. | |
| | 11 | 2010/0211224 | 08-2010 | Keeling, et al. | |
| | 12 | 2010/0235004 | 09-2010 | Thind | |
| | 13 | 2010/0289643 | 11-2010 | Trundle, et al. | |
| | 14 | 2011/0031323 | 02-2011 | Nold, et al. | |


| FOREIGN PATENT DOCUMENTS | | | | | | |
|--------------------------|----------|--|--------------------------------|-------------------------------|--|----------------|
| Examiner Initials | Cite No. | Foreign Patent Document Country Code-Number-Kind Code Example: JP 1234567 A1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear | T ¹ |

| NON PATENT LITERATURE DOCUMENTS | | | |
|---------------------------------|----------|---|----------------|
| Examiner Initials | Cite No. | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T ¹ |

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08022011

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|--------------------|-------------------------------|-----------------|------------|
| Examiner Signature | /Dave Robertson/ (08/10/2011) | Date Considered | 08/10/2011 |
|--------------------|-------------------------------|-----------------|------------|

*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

| | | |
|---|--|---|
| Issue Classification  | Application/Control No. 12502064 | Applicant(s)/Patent Under Reexamination STEINBERG, JOHN DOUGLAS |
| | Examiner DAVE ROBERTSON | Art Unit 2121 |

| ORIGINAL | | | | INTERNATIONAL CLASSIFICATION | | | | | | | | | | | |
|--------------------|-----------------------------------|----------|--|------------------------------|---|---|---|----------------------|--|--|--|--|--|--|--|
| CLASS | | SUBCLASS | | CLAIMED | | | | NON-CLAIMED | | | | | | | |
| 700 | | 276 | | G | 0 | 5 | B | 15 / 00 (2006.01.01) | | | | | | | |
| CROSS REFERENCE(S) | | | | G | 0 | 5 | D | 23 / 00 (2006.01.01) | | | | | | | |
| | | | | | | | | | | | | | | | |
| CLASS | SUBCLASS (ONE SUBCLASS PER BLOCK) | | | | | | | | | | | | | | |
| 700 | 299 | | | | | | | | | | | | | | |
| 236 | 46R | | | | | | | | | | | | | | |
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| <input type="checkbox"/> Claims renumbered in the same order as presented by applicant <input type="checkbox"/> CPA <input type="checkbox"/> T.D. <input type="checkbox"/> R.1.47 | | | | | | | | | | | | | | | |
|---|----------|-------|----------|-------|----------|-------|----------|-------|----------|-------|----------|-------|----------|-------|----------|
| Final | Original | Final | Original | Final | Original | Final | Original | Final | Original | Final | Original | Final | Original | Final | Original |
| 1 | 1 | 15 | 17 | | | | | | | | | | | | |
| 2 | 2 | 16 | 18 | | | | | | | | | | | | |
| 3 | 3 | - | 19 | | | | | | | | | | | | |
| 4 | 4 | 17 | 20 | | | | | | | | | | | | |
| 5 | 5 | 18 | 21 | | | | | | | | | | | | |
| 6 | 6 | - | 22 | | | | | | | | | | | | |
| 7 | 7 | | | | | | | | | | | | | | |
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| 9 | 10 | | | | | | | | | | | | | | |
| - | 11 | | | | | | | | | | | | | | |
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| 13 | 15 | | | | | | | | | | | | | | |
| 14 | 16 | | | | | | | | | | | | | | |

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|--|------------|------------------------------|-------------------|
| NONE | | Total Claims Allowed: | |
| | | 18 | |
| (Assistant Examiner) | (Date) | O.G. Print Claim(s) | O.G. Print Figure |
| /DAVE ROBERTSON/ Primary Examiner.Art Unit 2121 | 03/10/2012 | 1 | 7 |
| (Primary Examiner) | (Date) | | |



NOTICE OF ALLOWANCE AND FEE(S) DUE

20995 7590 03/20/2012
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER
ROBERTSON, DAVID
ART UNIT PAPER NUMBER

DATE MAILED: 03/20/2012

Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.

12/502,064 07/13/2009 John Douglas Steinberg EFAC2.011A 5514
TITLE OF INVENTION: SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM

Table with 7 columns: APPLN. TYPE, SMALL ENTITY, ISSUE FEE DUE, PUBLICATION FEE DUE, PREV. PAID ISSUE FEE, TOTAL FEE(S) DUE, DATE DUE

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
12/502,064 07/13/2009 John Douglas Steinberg EFACT.011A 5514

20995 7590 03/20/2012
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER

ROBERTSON, DAVID

ART UNIT PAPER NUMBER

2121

DATE MAILED: 03/20/2012

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Notice of Allowability

Application No.

12/502,064

Examiner

Dave Robertson

Applicant(s)

STEINBERG, JOHN DOUGLAS

Art Unit

2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

- 1. This communication is responsive to 3/1/2012.
- 2. An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 3. The allowed claim(s) is/are 1-10 and 12-21.
- 4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some* c) None of the:
 - 1. Certified copies of the priority documents have been received.
 - 2. Certified copies of the priority documents have been received in Application No. ____ .
 - 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

- 5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 - 6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date ____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
- 7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)


- 1. Notice of References Cited (PTO-892)
- 2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3. Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date ____
- 4. Examiner's Comment Regarding Requirement for Deposit of Biological Material
- 5. Notice of Informal Patent Application
- 6. Interview Summary (PTO-413), Paper No./Mail Date ____ .
- 7. Examiner's Amendment/Comment
- 8. Examiner's Statement of Reasons for Allowance
- 9. Other ____.

/Dave Robertson/
Primary Examiner, Art Unit 2121

EAST Search History**EAST Search History (Interference)**

| Ref # | Hits | Search Query | DBs | Default Operator | Plurals | Time Stamp |
|-------|------|--------------|-------------|------------------|---------|------------------|
| L182 | 196 | 700/276.cor. | USPAT; UPAD | ADJ | ON | 2012/03/10 23:47 |
| L183 | 410 | 236/46R.cor. | USPAT; UPAD | ADJ | ON | 2012/03/10 23:47 |

3/ 10/ 2012 11:48:06 PM**C:\Users\drobertson2\Documents\EAST\Workspaces\12502064 Steinberg energy use monitor tv viewing habits.wsp**

| | | |
|--|--|---|
| Search Notes  | Application/Control No. 12502064 | Applicant(s)/Patent Under Reexamination STEINBERG, JOHN DOUGLAS |
| | Examiner Dave Robertson | Art Unit 2121 |

| SEARCHED | | | |
|----------|--------------------|-----------|----------|
| Class | Subclass | Date | Examiner |
| 700 | 276 | 9/28/2010 | dcr |
| 62 | 176.6 | 2/26/2011 | dcr |
| 236 | 46R | 2/26/2011 | dcr |
| 700 | 276, 278, 295, 296 | 2/26/2011 | dcr |
| | (updated) | 8/22/2011 | dcr |
| | (updated) | 3/10/2012 | dcr |

| SEARCH NOTES | | |
|--|-----------|----------|
| Search Notes | Date | Examiner |
| EAST (USPAT, PgPUB, Derwent - see complete search history in application file) | 9/29/2010 | dcr |
| "236"/\$ "700"/\$ "340"/\$ (text-limited and cross-classification search - see search history) | 9/28/2010 | dcr |
| EAST (updated) | 2/26/2011 | dcr |
| EAST (text limited, targeted limitation search - see EAST search note) | 8/22/2011 | dcr |
| STIC (EIC 2100) search (see search strategy note in application file) | 8/19/2011 | dcr |
| EAST (updated, targeted limitation search, see search note) | 8/29/2011 | dcr |
| EAST (updated) | 3/10/2012 | dcr |

| INTERFERENCE SEARCH | | | |
|---------------------|----------|-----------|----------|
| Class | Subclass | Date | Examiner |
| 700 | 276 | 3/10/2012 | dcr |

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| | /DAVE ROBERTSON/ Primary Examiner.Art Unit 2121 |
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EAST Search History

EAST Search History (Prior Art)

| Ref # | Hits | Search Query | DBs | Default Operator | Plurals | Time Stamp |
|-------|--------|---|--|------------------|---------|---------------------|
| L49 | 1 | "12502064".rlan. or ("12".src. and "502064".ap.) | US-PGPUB; USPAT; USOCR; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L50 | 1 | "61134714".rlan. or ("61".src. and "134714".ap.) | US-PGPUB; USPAT; USOCR; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L51 | 70 | ((JOHN) near2 (STEINBERG)).INV. | US-PGPUB; USPAT | ADJ | ON | 2012/03/10 23:39 |
| L52 | 58 | ("20090099699" "20090125151" "4403644" "4674027" "5572438" "5717609" "6145751" "6178362" "6351693" "6400996" "6437692" "6480803" "6536675" "6542076" "6549130" "6574537" "6594825" "6595430" "6598056" "6619555" "6622097" "6622925" "6622926" "6628997" "6633823" "6643567" "6671586").PN. | US-PGPUB; USPAT; USOCR; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L53 | 527 | 700/276.cor. | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L54 | 38 | ("236"/\$ "700"/\$ "340"/\$).ccls. | US-PGPUB; USPAT; DERWENT | AND | ON | 2012/03/10 23:39 |
| L55 | 227122 | ("236"/\$ "700"/\$ "340"/\$).ccls. | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L56 | 16 | (unoccup\$3 or occup\$3 or occupancy) and L54 | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L57 | 157769 | (unoccup\$3 or occup\$3 or occupancy or presence) with (who! or person or user! or identi\$2) | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L58 | 7 | L57 and L56 | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L59 | 8 | L57 and L54 | US-PGPUB; | OR | ON | 2012/03/10 23:39 |

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|-----|-------|---|------------------------------------|-----|----|---------------------|
| | | | USPAT; DERWENT | | | |
| L60 | 6 | L57 and L52 | US- PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L61 | 14 | L58 or L59 or L60 | US- PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L62 | 10277 | ((unoccup\$3 or occup\$3 or occupancy or presence) same ((who! or person or user! or identity) with (identify or recognize))) | US- PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L63 | 919 | L62 and L55 | US- PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L64 | 1 | L62 and L54 | US- PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L65 | 1 | L62 and L52 | US- PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L66 | 33 | ("6145751").URPN. | USPAT | ADJ | ON | 2012/03/10 23:39 |
| L67 | 0 | ("H002176").URPN. | USPAT | ADJ | ON | 2012/03/10 23:39 |
| L68 | 27 | ("20090099699" "20090125151" "4403644" "4674027" "5572438" "5717609" "6145751" "6178362" "6351693" "6400996" "6437692" "6480803" "6536675" "6542076" "6549130" "6574537" "6594825" "6595430" "6598056" "6619555" "6622097" "6622925" "6622926" "6628997" "6633823" "6643567" "6671586").PN. | US- PGPUB; USPAT; USOCR | ADJ | ON | 2012/03/10 23:39 |
| L69 | 1141 | ((unoccup\$3 or occup\$3 or occupancy or presence) same ((who! or person or user! or identity) with (identify or recognize))).ti,ab,clm. | US- PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L70 | 107 | L55 and L69 | US- PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L71 | 5508 | ((unoccup\$3 or occup\$3 or occupancy or presence) same ((who! or person or user! or identity or individual) with (identif\$5 or recogni\$7))).ti,ab,clm. | US- PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L72 | 396 | L71 and L55 | US- PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L73 | 2816 | ((unoccup\$3 or occup\$3 or occupancy or presence) same ((who! or person or user! or identity or individual) near3 | US- PGPUB; USPAT; | OR | ON | 2012/03/10 23:39 |

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|-----|------|--|--------------------------------|-----|----|---------------------|
| | | ((identif\$5 or recogni\$7)).ti,ab,clm. | DERWENT | | | |
| L74 | 213 | L73 and L55 | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L75 | 3 | (television near5 (in\$1-use or usage or turned adj on)) and L71 | US-PGPUB; USPAT; DERWENT | AND | ON | 2012/03/10 23:39 |
| L76 | 11 | ((video or television or TV! or DVD!) near5 (in\$1-use or usage or turned adj on)) and L71 | US-PGPUB; USPAT; DERWENT | AND | ON | 2012/03/10 23:39 |
| L77 | 1 | (10/672712).APP. | USPAT; USOCR | ADJ | ON | 2012/03/10 23:39 |
| L78 | 55 | (US-20090125151-\$ or US-20090099699-\$ or US-20100123560-\$ or US-20100019051-\$ or US-20090284344-\$ or US-20090140838-\$ or US-20080281472-\$ or US-20070146126-\$ or US-20070040672-\$ or US-20070008149-\$ or US-20060267780-\$ or US-20040155781-\$ or US-20100156608-\$ or US-20100138007-\$ or US-20090055403-\$ or US-20060283938-\$ or US-20040178889-\$ or US-20040231003-\$).did. or (US-6912429-\$ or US-6851621-\$ or US-5682949-\$ or US-6145751-\$ or US-H002176-\$ or US-6549130-\$ or US-6542076-\$ or US-6351693-\$ or US-6549816-\$ or US-6671586-\$ or US-6643567-\$ or US-6633823-\$ or US-6628997-\$ or US-6622926-\$ or US-6622925-\$ or US-6622097-\$ or US-6619555-\$ or US-6598056-\$ or US-6595430-\$ or US-6594825-\$ or US-6574537-\$ or US-6536675-\$ or US-6480803-\$ or US-6437692-\$ or US-6400996-\$ or US-6178362-\$).did. or (US-5717609-\$ or US-5572438-\$ or US-4674027-\$ or US-4403644-\$ or US-7354005-\$ or US-7392042-\$ or US-7248170-\$ or US-7027617-\$ or US-6633223-\$ or US-7061393-\$).did. or (WO-2009069998-\$).did. | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L79 | 0 | (11/183602).APP. | USPAT; USOCR | ADJ | ON | 2012/03/10 23:39 |
| L80 | 1470 | ((television or TV! or video) with (channel or media or program\$4 or content)) same ((unoccup\$3 or occupied or occupancy or presence)) same (((who! or person or user or individual or viewer or occupant or identity) with (identi\$6 or recogni\$7 or determin\$ or detect\$))) | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L81 | 811 | ((television or TV! or video) with (channel or media or program\$4 or content)) same ((unoccup\$3 or occupied or occupancy or presence)) | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |

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| | | with (detect\$ or determin\$ or recogniz\$) same ((who! or person or user or individual or viewer or occupant or identity) with (identi\$6 or recogni\$7 or determin\$ or detect\$))) | | | | |
| L82 | 129 | (temperature or thermostat or environment\$2 or HVAC! or heating or cooling) with (control\$4 or setting or set\$1point) and L81 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L83 | 2 | "5977964".pn. | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L84 | 2 | ((television or TV! or video) (channel or media or program\$4 or content)) ((unoccup\$3 or occupied or occupancy or presence) (detect\$ or determin\$ or recogniz\$) ((who! or person or user or individual or viewer or occupant or identity) (identi\$6 or recogni\$7 or determin\$ or detect\$)))) and L83 | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L85 | 1 | (temperature or thermostat or environment\$2 or HVAC! or heating or cooling) with (control\$4 or setting or set\$1point) and L84 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L86 | 294 | ("5977964").URPN. | USPAT | ADJ | ON | 2012/03/10 23:39 |
| L87 | 294 | ((television or TV! or video) (channel or media or program\$4 or content)) ((unoccup\$3 or occupied or occupancy or presence) (detect\$ or determin\$ or recogniz\$) ((who! or person or user or individual or viewer or occupant or identity) (identi\$6 or recogni\$7 or determin\$ or detect\$)))) and L86 | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L88 | 23 | (temperature or thermostat or environment\$2 or HVAC! or heating or cooling) with (control\$4 or setting or set\$1point) and L87 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L89 | 17 | (temperature or thermostat or HVAC! or heating or cooling) with (control\$4 or setting or set\$1point) and L87 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L90 | 2 | (US-20090052859-\$).did. or (US-5977964-\$).did. | US-PGPUB; USPAT | ADJ | ON | 2012/03/10 23:39 |
| L91 | 1 | (temperature or thermostat or HVAC! or heating or cooling) with (control\$4 or setting or set\$1point) and L90 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L92 | 2 | "6993417".pn. | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L93 | 22 | ("6993417").URPN. | USPAT | ADJ | ON | 2012/03/10 23:39 |
| L94 | 80 | (US-20090125151-\$ or US-20090099699-\$ or US-20100123560-\$ or US-20100019051-\$ or US- | US-PGPUB; USPAT; | ADJ | ON | 2012/03/10 23:39 |

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|------|----|--|--------------------------------|-----|----|---------------------|
| | | 20090284344-\$ or US-20090140838-\$ or US-20080281472-\$ or US-20070146126-\$ or US-20070040672-\$ or US-20070008149-\$ or US-20060267780-\$ or US-20040155781-\$ or US-20100156608-\$ or US-20100138007-\$ or US-20090055403-\$ or US-20060283938-\$ or US-20040178889-\$ or US-20040231003-\$ or US-20100162285-\$ or US-20090293079-\$ or US-20090147772-\$ or US-20090052859-\$ or US-20060045105-\$).did. or (US-6912429-\$ or US-6851621-\$ or US-5682949-\$ or US-6145751-\$ or US-H002176-\$ or US-6549130-\$ or US-6542076-\$ or US-6351693-\$ or US-6549816-\$ or US-6671586-\$ or US-6643567-\$ or US-6633823-\$ or US-6628997-\$ or US-6622926-\$ or US-6622925-\$ or US-6622097-\$ or US-6619555-\$ or US-6598056-\$ or US-6595430-\$ or US-6594825-\$ or US-6574537-\$ or US-6536675-\$ or US-6480803-\$ or US-6437692-\$ or US-6400996-\$ or US-6178362-\$).did. or (US-5717609-\$ or US-5572438-\$ or US-4674027-\$ or US-4403644-\$ or US-7354005-\$ or US-7392042-\$ or US-7248170-\$ or US-7027617-\$ or US-6633223-\$ or US-7061393-\$ or US-5977964-\$ or US-7260823-\$ or US-7242988-\$ or US-7483964-\$ or US-6640145-\$ or US-6418424-\$ or US-7706928-\$ or US-7702421-\$ or US-7644869-\$ or US-6260765-\$ or US-5818347-\$ or US-5555927-\$ or US-5544036-\$ or US-5462225-\$ or US-5314004-\$ or US-5270952-\$ or US-5244146-\$).did. or (US-4655279-\$ or US-4341345-\$ or US-4136732-\$).did. or (WO-2009069998-\$).did. | DERWENT | | | |
| L95 | 14 | (US-20080281472-\$ or US-20100156608-\$ or US-20100162285-\$ or US-20090052859-\$ or US-20060045105-\$ or US-20070146126-\$).did. or (US-5977964-\$ or US-5682949-\$ or US-H002176-\$ or US-7061393-\$ or US-7260823-\$ or US-7242988-\$ or US-7483964-\$ or US-6912429-\$).did. | US-PGPUB; USPAT | ADJ | ON | 2012/03/10 23:39 |
| L96 | 0 | L95 and (non\$1occup\$) | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L97 | 2 | L94 and (non\$1occup\$) | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L100 | 53 | (US-20090125151-\$ or US-20090099699-\$ or US-20100162285-\$ or US-20100156608-\$ or US-20090052859-\$ or US-20080281472-\$ | US-PGPUB; USPAT | ADJ | ON | 2012/03/10 23:39 |

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|------|-----|--|--------------------------------|-----|----|---------------------|
| | | or US-20070146126-\$ or US-20060045105-\$).did. or (US-6671586-\$ or US-6643567-\$ or US-6633823-\$ or US-6628997-\$ or US-6622926-\$ or US-6622925-\$ or US-6622097-\$ or US-6619555-\$ or US-6598056-\$ or US-6595430-\$ or US-6594825-\$ or US-6574537-\$ or US-6549130-\$ or US-6542076-\$ or US-6536675-\$ or US-6480803-\$ or US-6437692-\$ or US-6400996-\$ or US-6351693-\$ or US-6178362-\$ or US-6145751-\$ or US-5717609-\$ or US-5572438-\$ or US-4674027-\$ or US-4403644-\$ or US-7644869-\$).did. or (US-6260765-\$ or US-5818347-\$ or US-5555927-\$ or US-5544036-\$ or US-5462225-\$ or US-5314004-\$ or US-5270952-\$ or US-5244146-\$ or US-4655279-\$ or US-4341345-\$ or US-4136732-\$ or US-7483964-\$ or US-7260823-\$ or US-7242988-\$ or US-H002176-\$ or US-7061393-\$ or US-6912429-\$ or US-5977964-\$ or US-5682949-\$).did. | | | | |
| L101 | 16 | (unoccup\$3 or non\$1occup\$4) and L100 | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L102 | 543 | (unoccup\$3 or non\$1occup\$4) with (notice or prompt or message or confirm\$5) | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L103 | 0 | (unoccup\$3 or non\$1occup\$4) with (notice or prompt or message or confirm\$5) and L100 | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L104 | 0 | (unoccup\$3 or non\$1occup\$4) with (notic\$2 or prompt\$3 or messag\$3 or confirm\$5) and L100 | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L105 | 0 | (unoccup\$3 or non\$1occup\$4) same (notic\$2 or prompt\$3 or messag\$3 or confirm\$5) and L100 | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L106 | 12 | (unoccup\$3 or non\$1occup\$4) and (notic\$2 or prompt\$3 or messag\$3 or confirm\$5) and L100 | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L107 | 75 | ("5682949").URPN. | USPAT | ADJ | ON | 2012/03/10 23:39 |
| L108 | 14 | (unoccup\$3 or non\$1occup\$4) and (notic\$2 or notif\$7 or prompt\$3 or messag\$3 or confirm\$5) and L100 | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L109 | 2 | L108 not L106 | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L110 | 47 | ("6912429").URPN. | USPAT | ADJ | ON | 2012/03/10 23:39 |

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|------|-----|---|--------------------------------|-----|----|---------------------|
| L111 | 14 | (unoccup\$3 or non\$1occup\$4) and (notic\$2 or notif\$7 or prompt\$3 or messag\$3 or confirm\$5 or user near input\$3) and L100 | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L112 | 108 | ("6549130").URPN. | USPAT | ADJ | ON | 2012/03/10 23:39 |
| L113 | 87 | (US-20090125151-\$ or US-20090099699-\$ or US-20100123560-\$ or US-20100019051-\$ or US-20090284344-\$ or US-20090140838-\$ or US-20080281472-\$ or US-20070146126-\$ or US-20070040672-\$ or US-20070008149-\$ or US-20060267780-\$ or US-20040155781-\$ or US-20100156608-\$ or US-20100138007-\$ or US-20090055403-\$ or US-20060283938-\$ or US-20040178889-\$ or US-20040231003-\$ or US-20100162285-\$ or US-20090293079-\$ or US-20090147772-\$ or US-20090052859-\$ or US-20060045105-\$).did. or (US-6912429-\$ or US-6851621-\$ or US-5682949-\$ or US-6145751-\$ or US-H002176-\$ or US-6549130-\$ or US-6542076-\$ or US-6351693-\$ or US-6549816-\$ or US-6671586-\$ or US-6643567-\$ or US-6633823-\$ or US-6628997-\$ or US-6622926-\$ or US-6622925-\$ or US-6622097-\$ or US-6619555-\$ or US-6598056-\$ or US-6595430-\$ or US-6594825-\$ or US-6574537-\$ or US-6536675-\$ or US-6480803-\$ or US-6437692-\$ or US-6400996-\$ or US-6178362-\$).did. or (US-5717609-\$ or US-5572438-\$ or US-4674027-\$ or US-4403644-\$ or US-7354005-\$ or US-7392042-\$ or US-7248170-\$ or US-7027617-\$ or US-6633223-\$ or US-7061393-\$ or US-5977964-\$ or US-7260823-\$ or US-7242988-\$ or US-7483964-\$ or US-6640145-\$ or US-6418424-\$ or US-7706928-\$ or US-7702421-\$ or US-7644869-\$ or US-6260765-\$ or US-5818347-\$ or US-5555927-\$ or US-5544036-\$ or US-5462225-\$ or US-5314004-\$ or US-5270952-\$ or US-5244146-\$).did. or (US-4655279-\$ or US-4341345-\$ or US-4136732-\$ or US-7509402-\$ or US-7587464-\$ or US-7590703-\$ or US-7657636-\$ or US-7455236-\$ or US-7421727-\$ or US-7156316-\$).did. or (WO-2009069998-\$).did. | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L114 | 22 | (unoccup\$3 or non\$1occup\$4) and (notic\$2 or notif\$7 or prompt\$3 or messag\$3 or confirm\$5 or user near input\$3) and L113 | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L115 | 10 | (unoccup\$3 or non\$1occup\$4) same (notic\$2 or notif\$7 or prompt\$3 or messag\$3 or confirm\$5 or user near input\$3 or validat\$3) and L113 | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |

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|------|------|---|--|-----|----|---------------------|
| L116 | 1 | "12502064".rlan. or ("12".src. and "502064".ap.) | US-PGPUB; USPAT; USOCR; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L117 | 2 | "12177822".rlan. or ("12".src. and "177822".ap.) | US-PGPUB; USPAT; USOCR; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L118 | 8 | ("20080283621" "5261481" "5476221" "6196468").PN. | US-PGPUB; USPAT; USOCR; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L119 | 2 | ("5261481").URPN. | USPAT | ADJ | ON | 2012/03/10 23:39 |
| L120 | 143 | 62/176.6.cor. | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L121 | 10 | (unoccup\$3 or non\$1occup\$4) same (notic\$2 or notif\$7 or prompt\$3 or messag\$3 or confirm\$5 or user near input\$3 or validat\$3 or verif\$7) and L113 | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L122 | 744 | (unoccup\$3 or non\$1occup\$4) with (notic\$2 or notif\$7 or prompt\$3 or messag\$3 or confirm\$5 or user near input\$3 or validat\$3 or verif\$7) | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L123 | 5382 | (unoccup\$3 or non\$1occup\$4 or occupied) with (notic\$2 or notif\$7 or prompt\$3 or messag\$3 or confirm\$5 or user near input\$3 or validat\$3 or verif\$7) | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L124 | 90 | (US-20090125151-\$ or US-20090099699-\$ or US-20100123560-\$ or US-20100019051-\$ or US-20090284344-\$ or US-20090140838-\$ or US-20080281472-\$ or US-20070146126-\$ or US-20070040672-\$ or US-20070008149-\$ or US-20060267780-\$ or US-20040155781-\$ or US-20100156608-\$ or US-20100138007-\$ or US-20090055403-\$ or US-20060283938-\$ or US-20040178889-\$ or US-20040231003-\$ or US-20100162285-\$ or US-20090293079-\$ or US-20090147772-\$ or US-20090052859-\$ or US-20060045105-\$).did. or (US-6912429-\$ or US-6851621-\$ or US-5682949-\$ or US-6145751-\$ or US-H002176-\$ or US-6549130-\$ or US-6542076-\$ or US-6351693-\$ or US-6549816-\$ or US-6671586-\$ or US-6643567-\$ or US-6633823-\$ or US-6628997-\$ or US-6622926-\$ or US-6622925-\$ or US-6622097-\$ or US-6619555-\$ or US-6598056-\$ or US-6595430-\$ or US-6594825-\$ or US-6574537-\$ or US- | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |

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| | | 6536675-\$ or US-6480803-\$ or US-6437692-\$ or US-6400996-\$ or US-6178362-\$).did. or (US-5717609-\$ or US-5572438-\$ or US-4674027-\$ or US-4403644-\$ or US-7354005-\$ or US-7392042-\$ or US-7248170-\$ or US-7027617-\$ or US-6633223-\$ or US-7061393-\$ or US-5977964-\$ or US-7260823-\$ or US-7242988-\$ or US-7483964-\$ or US-6640145-\$ or US-6418424-\$ or US-7706928-\$ or US-7702421-\$ or US-7644869-\$ or US-6260765-\$ or US-5818347-\$ or US-5555927-\$ or US-5544036-\$ or US-5462225-\$ or US-5314004-\$ or US-5270952-\$ or US-5244146-\$).did. or (US-4655279-\$ or US-4341345-\$ or US-4136732-\$ or US-7509402-\$ or US-7587464-\$ or US-7590703-\$ or US-7657636-\$ or US-7455236-\$ or US-7421727-\$ or US-7156316-\$ or US-5261481-\$ or US-7793510-\$).did. or (WO-2009069998-\$ or US-6196468-\$).did. | | | | |
| L125 | 53 | (US-20090125151-\$ or US-20090099699-\$ or US-20100162285-\$ or US-20100156608-\$ or US-20090052859-\$ or US-20080281472-\$ or US-20070146126-\$ or US-20060045105-\$).did. or (US-6671586-\$ or US-6643567-\$ or US-6633823-\$ or US-6628997-\$ or US-6622926-\$ or US-6622925-\$ or US-6622097-\$ or US-6619555-\$ or US-6598056-\$ or US-6595430-\$ or US-6594825-\$ or US-6574537-\$ or US-6549130-\$ or US-6542076-\$ or US-6536675-\$ or US-6480803-\$ or US-6437692-\$ or US-6400996-\$ or US-6351693-\$ or US-6178362-\$ or US-6145751-\$ or US-5717609-\$ or US-5572438-\$ or US-4674027-\$ or US-4403644-\$ or US-7644869-\$).did. or (US-6260765-\$ or US-5818347-\$ or US-5555927-\$ or US-5544036-\$ or US-5462225-\$ or US-5314004-\$ or US-5270952-\$ or US-5244146-\$ or US-4655279-\$ or US-4341345-\$ or US-4136732-\$ or US-7483964-\$ or US-7260823-\$ or US-7242988-\$ or US-H002176-\$ or US-7061393-\$ or US-6912429-\$ or US-5977964-\$ or US-5682949-\$).did. | US-PGPUB; USPAT | ADJ | ON | 2012/03/10 23:39 |
| L126 | 11 | (L124 or L125) and L123 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L127 | 17 | (US-20090052859-\$ or US-20080281472-\$ or US-20100156608-\$ or US-20100162285-\$ or US-20060045105-\$ or US-20080283621-\$).did. or (US-5977964-\$ or US-5261481-\$ or US-6594825-\$ or US-5682949-\$ or US-H002176-\$ or US- | US-PGPUB; USPAT | ADJ | ON | 2012/03/10 23:39 |

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| | | 7354005-\$ or US-7061393-\$ or US-7260823-\$ or US-7242988-\$ or US-7483964-\$ or US-6351693-\$.did. | | | | |
| L128 | 12942 | (unoccup\$3 or non\$1occup\$4 or occupied) same (notic\$2 or notif\$7 or prompt\$3 or messag\$3 or confirm\$5 or user near input\$3 or validat\$3 or verif\$7) | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L129 | 5 | L128 and L127 | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L130 | 1 | (12/041472).APP. | USPAT; USOCR | ADJ | ON | 2012/03/10 23:39 |
| L131 | 230702 | (unoccup\$3 or non\$1occup\$4 or occupied or presence) same (notic\$2 or notif\$7 or prompt\$3 or messag\$3 or confirm\$5 or user near input\$3 or validat\$3 or verif\$7) | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L132 | 6 | L131 and L127 | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L133 | 1 | (12/041472).APP. | USPAT; USOCR | ADJ | ON | 2012/03/10 23:39 |
| L134 | 91 | (US-20090125151-\$ or US-20090099699-\$ or US-20100123560-\$ or US-20100019051-\$ or US-20090284344-\$ or US-20090140838-\$ or US-20080281472-\$ or US-20070146126-\$ or US-20070040672-\$ or US-20070008149-\$ or US-20060267780-\$ or US-20040155781-\$ or US-20100156608-\$ or US-20100138007-\$ or US-20090055403-\$ or US-20060283938-\$ or US-20040178889-\$ or US-20040231003-\$ or US-20100162285-\$ or US-20090293079-\$ or US-20090147772-\$ or US-20090052859-\$ or US-20060045105-\$ or US-20080283621-\$).did. or (US-6912429-\$ or US-6851621-\$ or US-5682949-\$ or US-6145751-\$ or US-H002176-\$ or US-6549130-\$ or US-6542076-\$ or US-6351693-\$ or US-6549816-\$ or US-6671586-\$ or US-6643567-\$ or US-6633823-\$ or US-6628997-\$ or US-6622926-\$ or US-6622925-\$ or US-6622097-\$ or US-6619555-\$ or US-6598056-\$ or US-6595430-\$ or US-6594825-\$ or US-6574537-\$ or US-6536675-\$ or US-6480803-\$ or US-6437692-\$ or US-6400996-\$ or US-6178362-\$.did. or (US-5717609-\$ or US-5572438-\$ or US-4674027-\$ or US-4403644-\$ or US-7354005-\$ or US-7392042-\$ or US-7248170-\$ or US-7027617-\$ or US-6633223-\$ or US-7061393-\$ or US-5977964-\$ or US-7260823-\$ or US-7242988-\$ or US-7483964-\$ or US-6640145-\$ or US- | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |

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| | | 6418424-\$ or US-7706928-\$ or US-7702421-\$ or US-7644869-\$ or US-6260765-\$ or US-5818347-\$ or US-5555927-\$ or US-5544036-\$ or US-5462225-\$ or US-5314004-\$ or US-5270952-\$ or US-5244146-\$).did. or (US-4655279-\$ or US-4341345-\$ or US-4136732-\$ or US-7509402-\$ or US-7587464-\$ or US-7590703-\$ or US-7657636-\$ or US-7455236-\$ or US-7421727-\$ or US-7156316-\$ or US-5261481-\$ or US-7793510-\$).did. or (WO-2009069998-\$ or US-6196468-\$).did. | | | | |
| L135 | 230702 | (unoccup\$3 or non\$1occup\$4 or occupied or presence) same (notic\$2 or notif\$7 or prompt\$3 or messag\$3 or confirm\$5 or user near input\$3 or validat\$3 or verif\$7) | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L136 | 32 | L134 and L135 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L137 | 143 | 62/176.6.cor. | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L138 | 527 | 700/276.cor. | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L139 | 452 | 236/46R.cor. | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L140 | 1266 | 700/276,278,295,296.cor. | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L141 | 3 | (US-20090052859-\$ or US-20080281472-\$).did. or (US-5977964-\$).did. | US-PGPUB; USPAT | ADJ | ON | 2012/03/10 23:39 |
| L142 | 230702 | (unoccup\$3 or non\$1occup\$4 or occupied or presence) same (notic\$2 or notif\$7 or prompt\$3 or messag\$3 or confirm\$5 or user near input\$3 or validat\$3 or verif\$7) | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L143 | 1 | L142 and L141 | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L144 | 2 | "7055759".pn. | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L145 | 230702 | (unoccup\$3 or non\$1occup\$4 or occupied or presence) same (notic\$2 or notif\$7 or prompt\$3 or messag\$3 or confirm\$5 or user near input\$3 or validat\$3 or verif\$7) | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |

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| L146 | 0 | L144 and L145 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L147 | 1 | (unoccup\$3 or non\$1occup\$4 or occupied or presence) and L144 | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L148 | 15 | (US-20080281472-\$ or US-20100156608-\$ or US-20100162285-\$ or US-20090052859-\$ or US-20060045105-\$ or US-20070146126-\$).did. or (US-5977964-\$ or US-5682949-\$ or US-H002176-\$ or US-7061393-\$ or US-7260823-\$ or US-7242988-\$ or US-7483964-\$ or US-6912429-\$ or US-7055759-\$).did. | US-PGPUB; USPAT | ADJ | ON | 2012/03/10 23:39 |
| L149 | 8 | ((unoccup\$3 or occup\$3 or occupancy or presence) same ((who! or person or user! or identity or individual) with (identif\$5 or recogni\$7))) and L148 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L150 | 7 | (prompt\$3 or ask\$3) and L148 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L151 | 11840 | ((prompt\$3 or ask\$3) same L145) | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L152 | 0 | ((prompt\$3 or ask\$3) same L145) and L148 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L153 | 92 | (US-20090125151-\$ or US-20090099699-\$ or US-20100123560-\$ or US-20100019051-\$ or US-20090284344-\$ or US-20090140838-\$ or US-20080281472-\$ or US-20070146126-\$ or US-20070040672-\$ or US-20070008149-\$ or US-20060267780-\$ or US-20040155781-\$ or US-20100156608-\$ or US-20100138007-\$ or US-20090055403-\$ or US-20060283938-\$ or US-20040178889-\$ or US-20040231003-\$ or US-20100162285-\$ or US-20090293079-\$ or US-20090147772-\$ or US-20090052859-\$ or US-20060045105-\$ or US-20080283621-\$).did. or (US-6912429-\$ or US-6851621-\$ or US-5682949-\$ or US-6145751-\$ or US-H002176-\$ or US-6549130-\$ or US-6542076-\$ or US-6351693-\$ or US-6549816-\$ or US-6671586-\$ or US-6643567-\$ or US-6633823-\$ or US-6628997-\$ or US-6622926-\$ or US-6622925-\$ or US-6622097-\$ or US-6619555-\$ or US-6598056-\$ or US-6595430-\$ or US-6594825-\$ or US-6574537-\$ or US-6536675-\$ or US-6480803-\$ or US-6437692-\$ or US-6400996-\$ or US- | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |

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| | | 6178362-\$).did. or (US-5717609-\$ or US-5572438-\$ or US-4674027-\$ or US-4403644-\$ or US-7354005-\$ or US-7392042-\$ or US-7248170-\$ or US-7027617-\$ or US-6633223-\$ or US-7061393-\$ or US-5977964-\$ or US-7260823-\$ or US-7242988-\$ or US-7483964-\$ or US-6640145-\$ or US-6418424-\$ or US-7706928-\$ or US-7702421-\$ or US-7644869-\$ or US-6260765-\$ or US-5818347-\$ or US-5555927-\$ or US-5544036-\$ or US-5462225-\$ or US-5314004-\$ or US-5270952-\$ or US-5244146-\$).did. or (US-4655279-\$ or US-4341345-\$ or US-4136732-\$ or US-7509402-\$ or US-7587464-\$ or US-7590703-\$ or US-7657636-\$ or US-7455236-\$ or US-7421727-\$ or US-7156316-\$ or US-5261481-\$ or US-7793510-\$ or US-7055759-\$).did. or (WO-2009069998-\$ or US-6196468-\$).did. | | | | |
| L154 | 2 | ((prompt\$3 or ask\$3) same L145) and L153 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L155 | 0 | "are you there" | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L156 | 1 | "11892171".rlan. or ("11".src. and "892171".ap.) | US-PGPUB; USPAT; USOCR; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L157 | 42 | ((HAL) near2 (GREENBERGER)).INV. | US-PGPUB; USPAT | ADJ | ON | 2012/03/10 23:39 |
| L158 | 14 | ((SANTIAGO) near2 (CARVAJAL)).INV. | US-PGPUB; USPAT | ADJ | ON | 2012/03/10 23:39 |
| L159 | 14 | ("20040051813" "20080052710" "6259486" "6518561" "6677589" "7312450").PN. | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2012/03/10 23:39 |
| L160 | 11 | "2633200" | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L161 | 92 | (US-20090125151-\$ or US-20090099699-\$ or US-20100123560-\$ or US-20100019051-\$ or US-20090284344-\$ or US-20090140838-\$ or US-20080281472-\$ or US-20070146126-\$ or US-20070040672-\$ or US-20070008149-\$ or US-20060267780-\$ or US-20040155781-\$ or US-20100156608-\$ or US-20100138007-\$ or US-20090055403-\$ or US-20060283938-\$ or US-20040178889-\$ or US-20040231003-\$ | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |

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| | | or US-20100162285-\$ or US-20090293079-\$ or US-20090147772-\$ or US-20090052859-\$ or US-20060045105-\$ or US-20080283621-\$).did. or (US-6912429-\$ or US-6851621-\$ or US-5682949-\$ or US-6145751-\$ or US-H002176-\$ or US-6549130-\$ or US-6542076-\$ or US-6351693-\$ or US-6549816-\$ or US-6671586-\$ or US-6643567-\$ or US-6633823-\$ or US-6628997-\$ or US-6622926-\$ or US-6622925-\$ or US-6622097-\$ or US-6619555-\$ or US-6598056-\$ or US-6595430-\$ or US-6594825-\$ or US-6574537-\$ or US-6536675-\$ or US-6480803-\$ or US-6437692-\$ or US-6400996-\$ or US-6178362-\$).did. or (US-5717609-\$ or US-5572438-\$ or US-4674027-\$ or US-4403644-\$ or US-7354005-\$ or US-7392042-\$ or US-7248170-\$ or US-7027617-\$ or US-6633223-\$ or US-7061393-\$ or US-5977964-\$ or US-7260823-\$ or US-7242988-\$ or US-7483964-\$ or US-6640145-\$ or US-6418424-\$ or US-7706928-\$ or US-7702421-\$ or US-7644869-\$ or US-6260765-\$ or US-5818347-\$ or US-5555927-\$ or US-5544036-\$ or US-5462225-\$ or US-5314004-\$ or US-5270952-\$ or US-5244146-\$).did. or (US-4655279-\$ or US-4341345-\$ or US-4136732-\$ or US-7509402-\$ or US-7587464-\$ or US-7590703-\$ or US-7657636-\$ or US-7455236-\$ or US-7421727-\$ or US-7156316-\$ or US-5261481-\$ or US-7793510-\$ or US-7055759-\$).did. or (WO-2009069998-\$ or US-6196468-\$).did. | | | | |
| L162 | 2 | L161 and rosen.in. | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L163 | 1 | L161 and rosen.in. and override | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L164 | 0 | "11926950" | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L165 | 22 | ("20050040250" "20060071087" "20060186214" "20070045431" "5395042" "5396048" "5476221" "5538181" "6843068" "6845918" "6991029").PN. | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L166 | 6 | L165 and override | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L167 | 1 | (11/335182).APP. | USPAT; USOCR | OR | ON | 2012/03/10 23:39 |


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| L168 | 0 | (11/394581).APP. | USPAT; USOCR | OR | ON | 2012/03/10 23:39 |
| L169 | 104 | (US-20090125151-\$ or US-20090099699-\$ or US-20100123560-\$ or US-20100019051-\$ or US-20090284344-\$ or US-20090140838-\$ or US-20080281472-\$ or US-20070146126-\$ or US-20070040672-\$ or US-20070008149-\$ or US-20060267780-\$ or US-20040155781-\$ or US-20100156608-\$ or US-20100138007-\$ or US-20090055403-\$ or US-20060283938-\$ or US-20040178889-\$ or US-20040231003-\$ or US-20100162285-\$ or US-20090293079-\$ or US-20090147772-\$ or US-20090052859-\$ or US-20060045105-\$ or US-20080283621-\$ or US-20060186214-\$ or US-20070045431-\$).did. or (US-20060071087-\$ or US-20050040250-\$).did. or (US-6912429-\$ or US-6851621-\$ or US-5682949-\$ or US-6145751-\$ or US-H002176-\$ or US-6549130-\$ or US-6542076-\$ or US-6351693-\$ or US-6549816-\$ or US-6671586-\$ or US-6643567-\$ or US-6633823-\$ or US-6628997-\$ or US-6622926-\$ or US-6622925-\$ or US-6622097-\$ or US-6619555-\$ or US-6598056-\$ or US-6595430-\$ or US-6594825-\$ or US-6574537-\$ or US-6536675-\$ or US-6480803-\$ or US-6437692-\$ or US-6400996-\$ or US-6178362-\$).did. or (US-5717609-\$ or US-5572438-\$ or US-4674027-\$ or US-4403644-\$ or US-7354005-\$ or US-7392042-\$ or US-7248170-\$ or US-7027617-\$ or US-6633223-\$ or US-7061393-\$ or US-5977964-\$ or US-7260823-\$ or US-7242988-\$ or US-7483964-\$ or US-6640145-\$ or US-6418424-\$ or US-7706928-\$ or US-7702421-\$ or US-7644869-\$ or US-6260765-\$ or US-5818347-\$ or US-5555927-\$ or US-5544036-\$ or US-5462225-\$ or US-5314004-\$ or US-5270952-\$ or US-5244146-\$).did. or (US-4655279-\$ or US-4341345-\$ or US-4136732-\$ or US-7509402-\$ or US-7587464-\$ or US-7590703-\$ or US-7657636-\$ or US-7455236-\$ or US-7421727-\$ or US-7156316-\$ or US-5261481-\$ or US-7793510-\$ or US-7055759-\$ or US-6845918-\$ or US-5395042-\$ or US-7802618-\$).did. or (WO-2009069998-\$ or US-6196468-\$ or US-20070045431-\$ or US-20060186214-\$ or US-6843068-\$ or US-20040245351-\$ or WO-9520782-\$).did. | US- PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L170 | 3046 | "I1" and over\$1ride | US- PGPUB; USPAT; | OR | ON | 2012/03/10 23:39 |

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| | | | DERWENT | | | |
| L171 | 33 | L169 and (over\$1ride) | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L172 | 16 | L169 and (over\$1ride same \$2occup\$5) | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L173 | 10 | L169 and (over\$1ride same \$2occup\$5) same (user or operator) | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L174 | 6 | L169 and (over\$1ride same \$2occup\$5) same (user or operator) same (input or prompt\$4 or ask\$3) | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L175 | 143 | ("5544036").URPN. | USPAT | OR | ON | 2012/03/10 23:39 |
| L176 | 3 | L175 and (over\$1ride same \$2occup\$5) same (user or operator) | US-PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |
| L177 | 15 | (US-20080281472-\$ or US-20100156608-\$ or US-20100162285-\$ or US-20090052859-\$ or US-20060045105-\$ or US-20070146126-\$).did. or (US-5977964-\$ or US-5682949-\$ or US-H002176-\$ or US-7061393-\$ or US-7260823-\$ or US-7242988-\$ or US-7483964-\$ or US-6912429-\$ or US-7055759-\$).did. | US-PGPUB; USPAT | OR | ON | 2012/03/10 23:39 |
| L178 | 53 | (US-20090125151-\$ or US-20090099699-\$ or US-20100162285-\$ or US-20100156608-\$ or US-20090052859-\$ or US-20080281472-\$ or US-20070146126-\$ or US-20060045105-\$).did. or (US-6671586-\$ or US-6643567-\$ or US-6633823-\$ or US-6628997-\$ or US-6622926-\$ or US-6622925-\$ or US-6622097-\$ or US-6619555-\$ or US-6598056-\$ or US-6595430-\$ or US-6594825-\$ or US-6574537-\$ or US-6549130-\$ or US-6542076-\$ or US-6536675-\$ or US-6480803-\$ or US-6437692-\$ or US-6400996-\$ or US-6351693-\$ or US-6178362-\$ or US-6145751-\$ or US-5717609-\$ or US-5572438-\$ or US-4674027-\$ or US-4403644-\$ or US-7644869-\$).did. or (US-6260765-\$ or US-5818347-\$ or US-5555927-\$ or US-5544036-\$ or US-5462225-\$ or US-5314004-\$ or US-5270952-\$ or US-5244146-\$ or US-4655279-\$ or US-4341345-\$ or US-4136732-\$ or US-7483964-\$ or US-7260823-\$ or US-7242988-\$ or US-H002176-\$ or US-7061393-\$ or US-6912429-\$ or US-5977964-\$ or US-5682949-\$).did. | US-PGPUB; USPAT | OR | ON | 2012/03/10 23:39 |
| L179 | 106 | (US-20090125151-\$ or US- | US- | OR | ON | 2012/03/10 |

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|------|----|--|------------------------------------|----|----|---------------------|
| | | 20090099699-\$ or US-20100123560-\$ or US-20100019051-\$ or US- 20090284344-\$ or US-20090140838-\$ or US-20080281472-\$ or US- 20070146126-\$ or US-20070040672-\$ or US-20070008149-\$ or US- 20060267780-\$ or US-20040155781-\$ or US-20100156608-\$ or US- 20100138007-\$ or US-20090055403-\$ or US-20060283938-\$ or US- 20040178889-\$ or US-20040231003-\$ or US-20100162285-\$ or US- 20090293079-\$ or US-20090147772-\$ or US-20090052859-\$ or US- 20060045105-\$ or US-20080283621-\$ or US-20060186214-\$ or US- 20070045431-\$).did. or (US- 20060071087-\$ or US-20050040250- \$).did. or (US-6912429-\$ or US- 6851621-\$ or US-5682949-\$ or US- 6145751-\$ or US-H002176-\$ or US- 6549130-\$ or US-6542076-\$ or US- 6351693-\$ or US-6549816-\$ or US- 6671586-\$ or US-6643567-\$ or US- 6633823-\$ or US-6628997-\$ or US- 6622926-\$ or US-6622925-\$ or US- 6622097-\$ or US-6619555-\$ or US- 6598056-\$ or US-6595430-\$ or US- 6594825-\$ or US-6574537-\$ or US- 6536675-\$ or US-6480803-\$ or US- 6437692-\$ or US-6400996-\$ or US- 6178362-\$).did. or (US-5717609-\$ or US-5572438-\$ or US-4674027-\$ or US- 4403644-\$ or US-7354005-\$ or US- 7392042-\$ or US-7248170-\$ or US- 7027617-\$ or US-6633223-\$ or US- 7061393-\$ or US-5977964-\$ or US- 7260823-\$ or US-7242988-\$ or US- 7483964-\$ or US-6640145-\$ or US- 6418424-\$ or US-7706928-\$ or US- 7702421-\$ or US-7644869-\$ or US- 6260765-\$ or US-5818347-\$ or US- 5555927-\$ or US-5544036-\$ or US- 5462225-\$ or US-5314004-\$ or US- 5270952-\$ or US-5244146-\$).did. or (US-4655279-\$ or US-4341345-\$ or US-4136732-\$ or US-7509402-\$ or US- 7587464-\$ or US-7590703-\$ or US- 7657636-\$ or US-7455236-\$ or US- 7421727-\$ or US-7156316-\$ or US- 5261481-\$ or US-7793510-\$ or US- 7055759-\$ or US-6845918-\$ or US- 5395042-\$ or US-7802618-\$ or US- 7565225-\$ or US-5761083-\$).did. or (WO-2009069998-\$ or US-6196468-\$ or US-20070045431-\$ or US- 20060186214-\$ or US-6843068-\$ or US-20040245351-\$ or WO-9520782- \$).did. | PGPUB; USPAT; DERWENT | | | 23:39 |
| L180 | 52 | L179 not L178 not L177 | US- PGPUB; USPAT; DERWENT | OR | ON | 2012/03/10 23:39 |

3/ 10/ 2012 11:47:14 PM

**C:\Users\drobertson2\Documents\EAST\Workspaces\12502064 Steinberg energy use
monitor tv viewing habits.wsp**

| | | |
|---|--|---|
| Issue Classification  | Application/Control No. 12502064 | Applicant(s)/Patent Under Reexamination STEINBERG, JOHN DOUGLAS |
| | Examiner DAVE ROBERTSON | Art Unit 2121 |

| ORIGINAL | | | | INTERNATIONAL CLASSIFICATION | | | | | | | | | | | |
|--------------------|-----------------------------------|----------|--|------------------------------|---|---|---|----------------------|--|--|--|--|--|--|--|
| CLASS | | SUBCLASS | | CLAIMED | | | | NON-CLAIMED | | | | | | | |
| 700 | | 276 | | G | 0 | 5 | B | 15 / 00 (2006.0) | | | | | | | |
| CROSS REFERENCE(S) | | | | G | 0 | 5 | D | 23 / 00 (2006.01.01) | | | | | | | |
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| CLASS | SUBCLASS (ONE SUBCLASS PER BLOCK) | | | | | | | | | | | | | | |
| 700 | 299 | | | | | | | | | | | | | | |
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| <input type="checkbox"/> Claims renumbered in the same order as presented by applicant <input type="checkbox"/> CPA <input type="checkbox"/> T.D. <input type="checkbox"/> R.1.47 | | | | | | | | | | | | | | | |
|---|----------|-------|----------|-------|----------|-------|----------|-------|----------|-------|----------|-------|----------|-------|----------|
| Final | Original | Final | Original | Final | Original | Final | Original | Final | Original | Final | Original | Final | Original | Final | Original |
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| 2 | 2 | 17 | 18 | | | | | | | | | | | | |
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| NONE | | Total Claims Allowed: | |
| | | 20 | |
| (Assistant Examiner) | (Date) | O.G. Print Claim(s) | O.G. Print Figure |
| /DAVE ROBERTSON/ Primary Examiner.Art Unit 2121 | 03/10/2012 | 1 | 7 |
| (Primary Examiner) | (Date) | | |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : John Douglas Steinberg
App. No. : 12/502,064
Filed : July 13, 2009
For : SYSTEM AND METHOD FOR
USING A NETWORKED
ELECTRONIC DEVICE AS AN
OCCUPANCY SENSOR FOR AN
ENERGY MANAGEMENT SYSTEM
Examiner : David Robertson
Art Unit : 2121
Conf No. : 5514

RESPONSE TO OFFICE ACTION DATED OCTOBER 4, 2011**Mail Stop Amendment**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action mailed October 4, 2011, Applicant respectfully submits the following amendments and comments.

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Summary of Interview begins on page 7 of this paper.

Remarks/Arguments begin on page 9 of this paper.

AMENDMENTS TO THE CLAIMS

Please amend Claims 1, 9, 10, 12, 20, and 21 as indicated below. Also, please cancel Claims 11 and 22 without prejudice or disclaimer.

1. (Currently Amended) A method for varying temperature setpoints for an HVAC system comprising:

storing at least a first HVAC temperature setpoint associated with a structure that is deemed to be non-occupied and at least a second HVAC temperature setpoint associated with a said structure deemed to be occupied;

determining whether one or more networked electronic devices inside said structure are in use, wherein said networked electronic devices comprise a graphic user interface comprising a display, wherein said networked electronic devices receive input from one or more users and wherein use of said networked electronic devices comprises at least one of cursor movement, keystrokes or other user interface actions intended to alter a state of one or more of said networked electronic devices by one or more users;

in response to use of said one or more networked devices, determining whether that said HVAC system is set to said first HVAC temperature setpoint indicating that said structure is deemed to be non occupied;

determining that said one or more users has previously indicated a preference that said user's input be obtained before automatically changing said first HVAC temperature setpoint to said second HVAC temperature setpoint indicating that said structure is deemed to be occupied;

prompting said one or more users based on said determining that providing electronic notice to said one or more of said users user's input should be obtained, wherein said prompting sends a message to at least one of said networked electronic devices that said first HVAC system is set for a non-occupied structure and whether to change said first HVAC temperature setpoint to a said second HVAC temperature setpoint associated with occupancy of said structure; and

in response to said prompting, receiving input from said one or more users to keep said first HVAC temperature setpoint; and

keeping said first HVAC temperature setpoint based upon said input from said one or more users ~~user response to said electronic notice.~~

2. (Previously Presented) The method of Claim 1 in which at least one of said networked electronic devices is a television.

3. (Previously Presented) The method of Claim 1 in which at least one of said networked electronic devices is a personal computer.

4. (Previously Presented) The method of Claim 1 in which at least one of said networked electronic devices is connected to the Internet.

5. (Previously Presented) The method of Claim 1 in which programming being watched or listened to using at least one of said networked electronic devices is used to determine which occupant of said structure is likely to be present, and the second HVAC temperature setpoint for said thermostatic controller is selected based upon the preferences of the occupant determined to be using said at least one networked electronic device.

6. (Previously Presented) The method of Claim 1 in which at least one of said networked electronic devices is a game console.

7. (Previously Presented) The method of Claim 1 in which at least one of said networked electronic devices communicates with a remote server.

8. (Canceled)

9. (Currently Amended) The method of Claim 1 further comprising in which ~~said adjusting of said temperature setpoint is initiated by~~ with a remote computer.

10. (Currently Amended) The method of Claim 1 in which said first HVAC temperature setpoint is varied automatically based on said input from said one or more users.

11. (Canceled)

12. (Currently Amended) A system for altering the setpoint on a thermostat for space conditioning of a structure comprising:

at least one thermostat having at least a first temperature setpoint associated with a non-occupied structure, and at least a second temperature setpoint associated with the existence of occupants in said structure;

one or more electronic devices having at least a graphic user interface comprising a display wherein said electronic devices receive input from one or more users and wherein use of said electronic devices comprises at least one of cursor movement, keystrokes or other user interface actions intended to alter a state of one or more of said electronic devices by one or more users wherein activity of one or more networked electronic devices indicates whether said thermostat should be changed from said first temperature setpoint to said second temperature setpoint;

wherein said electronic devices and said thermostat are connected to a network;

an application comprising one or more computer processors in communication with said network, wherein said application determines whether said one or more electronic devices are in use and in response, whether said thermostat is set to said first temperature setpoint that indicates said structure is not occupied,

said application determining that said one or more users has previously indicated a preference that said user's input be obtained before automatically changing said first HVAC temperature setpoint to said second HVAC temperature setpoint indicating that said structure is deemed to be occupied;

said application prompting said one or more users based on said determining that said one or more of said user's input should be obtained,

wherein said application provides electronic notice to one or more of said users of said electronic devices that said thermostat is set for a non-occupied

structure and whether to keep said first temperature setpoint or change to said second temperature setpoint ; and

wherein said application in response to said prompting, receives input from said one or more users to keep said first HVAC temperature setpoint; and

wherein said ~~said~~ thermostat is kept at said first temperature setpoint based upon said input from said one or more users~~user response to said electronic notice.~~

13. (Previously Presented) The system of Claim 12 in which at least one of said electronic devices is a television.

14. (Previously Presented) The system of Claim 12 in which at least one of said electronic devices is a personal computer.

15. (Previously Presented) The system of Claim 12 in which at least one of said electronic devices is connected to the Internet.

16. (Previously Presented) The system of Claim 12 in which the programming being watched or listened to using said electronic devices is used to determine which occupant of said structure is likely to be using at least one of said electronic devices, and the setpoint for said thermostatic controller is selected based upon the preferences of the occupant determined to be using said at least one electronic device.

17. (Previously Presented) The system of Claim 12 in which at least one of said electronic devices is a game console.

18. (Previously Presented) The system of Claim 12 in which at least one of said electronic devices communicates with a remote server.

19. (Canceled)

20. (Currently Amended) The system of Claim 12 further comprising a remote computer that varies ~~in which variation of said first temperature setpoint is initiated by a remote computer.~~

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Filing Date: July 13, 2009

21. (Currently Amended) The system of Claim 12 in which said first temperature setpoint is varied automatically based on said input from said one or more users.

22. (Canceled)

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Filing Date: July 13, 2009

SUMMARY OF INTERVIEW

Attendees, Date and Type of Interview

The interview was conducted on February 7, 2012 and attended by Examiner Robertson, John Steinberg and John R. King.

Exhibits and/or Demonstrations

None.

Identification of Claims Discussed

Claim 1.

Identification of Prior Art Discussed

U.S. Publication No. 2008/0281472 to Podgorny, et al.

“Opportunities to Save Energy and Improve Comfort by Using Wireless Sensor Networks in Buildings” to Wang, et al.

Johnson Controls - T600HCx-3 Single-Stage Thermostats Installation Instructions T600HCN-3, T600HCP-3 Part No. 24-9890-560, 2006.

Emerson Climate Technologies - Network Thermostat of E2 Building Controller Installation and Operation Manual.

U.S. Patent No. 5,977,964 to Williams, et al.

Proposed Amendments

See the amendments made to Claim 1 as set forth above.

Principal Arguments and Other Matters

In brief, none of the cited references, even when combined, have the following elements: monitoring usage of a networked electronic device to determine a structure deemed non-occupied is now occupied, providing electronic notice of a potential change to occupancy, and allowing a user to decline a proposed change so that the non-occupancy setting remains.

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Filing Date: July 13, 2009

For example, the cited Johnson Controls and Emerson references describe the ability for a user to change a non-occupancy setting to an occupancy setting, such as when a user is returning from vacation.

These references, however, fail to teach the concept of automatically notifying the user that a non-occupied setting will be changed to an occupied setting and then allowing the user to override the change by retaining the non-occupied setting.

In other words, the amended claims allow a user to override a proposed change to occupancy so that the non-occupied setting remains.

Results of Interview

It was Applicant's understanding that it would be helpful to clarify how the claimed elements interact with each other. It was also Applicant's understanding that the proposed amendments would be further reviewed upon submission of this response.

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REMARKS

The October 4, 2011 Office Action was based upon pending Claims 1-7, 9-18 and 20-22. This Amendment amends Claims 1, 9, 10, 12, 20, and 21 as well as cancels Claims 11 and 22.

Thus, after entry of this Amendment, Claims 1-7, 9, 10, 12-18, 20 and 21 are pending and presented for further consideration.

INTERVIEW

Applicant would like to thank Examiner Robertson for the interview extended to Applicant's counsel of record, John R. King and inventor John Steinberg. The interview helped applicant better understand the rejections raised in the Office Action.

ISSUES RAISED IN THE OFFICE ACTION

In the Office Action, Claims 1, 3, 4, 7, 9-12, 14, 15, 18 and 20-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2008/0281472 to Podgorny, et al. (hereinafter "Podgorny") in view of the article "Opportunities to Save Energy and Improve Comfort by Using Wireless Sensor Networks in Buildings" to Wang, et al. (hereinafter "Wang") and either of Johnson Controls - T600HCx-3 Single-Stage Thermostats Installation Instructions T600HCN-3, T600HCP-3 Part No. 24-9890-560, 2006 (hereinafter "Johnson Controls"), or the Emerson Climate Technologies - Network Thermostat of E2 Building Controller Installation and Operation Manual (hereinafter "Emerson").

Further, Claims 2, 5, 6, 13, 16 and 17 were rejected under 35 U.S.C. §103(a) as being unpatentable over Podgorny in view of Wang, Johnson Controls or Emerson Climate Technologies as applied to Claims 1 and 12, and further in view of U.S. Patent No. 5,977,964 to Williams, et al. (hereinafter "Williams").

In this response, Podgorny, Wang, Johnson Controls, Emerson Climate Technologies and Williams will be referred to both individually and collectively as "the cited references."

In addition, paragraph numbers referenced herein are based on the paragraph numbering set forth in the published application – U.S. Publication No. 2010/0280667 A1 (hereafter “the Published Application”).

REJECTION OF CLAIMS 1, 3, 4, 7, 9-12, 14, 15, 18, AND 20-22 UNDER § 103(a)

In the Office Action, Claims 1, 3, 4, 7, 9-12, 14, 15, 18 and 20-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Podgorny, in view of Wang, and either of Johnson Controls, or Emerson.

Claims 1 and 12

As discussed in the interview, none of the cited references, even when combined, have the following elements: 1) determining that a user has previously indicated a preference for input before changing temperature settings, 2) before automatically changing the temperature setting prompting a user for input, 3) receiving user input to keep the non-occupied setting, and 4) keeping the non-occupancy setting. Each of these differences is discussed below.

1) User Preferences

In amended Claims 1 and 12, the use of networked electronic devices is used to determine whether a structure that was previously deemed non-occupied should be treated as occupied.

In addition, in response to use of the networked electronic devices, a determination is made that the HVAC system is set to a non-occupied temperature setpoint.

Before automatically changing a temperature setpoint from non-occupied to occupied, amended Claims 1 and 12 include determining whether the user has indicated a preference for user input.

In contrast, none the cited references, either alone or in combination, teach this concept.

2) Before Automatically Changing a Temperature Setting Prompting The User For Input

Amended Claims 1 and 12 are also directed to prompting a user for input regarding a potential change from a non-occupied to an occupied setting. For example, the user is prompted based on determining that the user's input should be obtained. This prompting sends a message to the user that the HVAC system is set for a non-occupied structure and prompts whether to change the HVAC temperature setpoint to a second HVAC temperature setpoint associated with occupancy of the structure.

Again, none of the cited references, even when combined, prompt a user before automatically changing from a non-occupied to occupied setting.

3) Receiving User Input To Keep The Non-Occupied Setting

After the user has been prompted, amended Claims 1 and 12 are directed to the situation where the user then chooses not to automatically change the temperature setting from non-occupied to occupied. In other words, the user chooses to keep the HVAC temperature setting for a non-occupied structure.

As discussed in the interview, none of the cited references, even when combined, describe the concept of overriding an automatic change from non-occupied to occupied so that the non-occupied setting remains.

4) Keeping The Non-Occupancy Setting

In amended Claims 1 and 12, based on the user input, the HVAC temperature setpoint is not changed and remains at the non-occupancy setting. Thus, even though the system determines occupancy and desires to automatically change the non-occupied setting, the non-occupancy setting remains.

During the interview, it was discussed that the cited Johnson Controls and Emerson references describe the ability for a user to change a non-occupancy setting to an occupancy setting, such as when a user is returning from vacation.

These references, however, fail to teach the concept of automatically notifying the user that a non-occupied setting will be changed to an occupied setting and then allowing the user to override the change by retaining the non-occupied setting.

In other words, the amended claims allow a user to override a proposed change to occupancy so that the non-occupied setting remains.

Legal Standard for Obviousness Under § 103

The case, KSR International Co. v. Teleflex Inc., 127 S.Ct. 1727, 82 U.S.P.Q.2d 1385 (2007), in no way relieves the Patent Office of its obligation to consider all claim limitations when determining patentability of an invention over the prior art.

Accordingly, it remains well settled law that a finding of “obviousness requires a suggestion of all limitations in a claim.” CFMT, Inc. v. Yieldup Intern. Corp., 349 F.3d 1333, 1342 (Fed. Cir. 2003) (emphasis added) (cited in Ex Parte Wada, 2008 WL 142652, *4 (Bd.Pat.App. & Interf., Jan. 14, 2008)).

In the aftermath of KSR, the Board of Patent Appeals and Interferences has repeatedly reversed findings of obviousness when the Examiner has failed to proffer a prima facie case of obviousness. See, e.g., Wada, 2008 WL 142652 at *5 (“Because the Examiner has not explained why every limitation in claim 1 would have been obvious to a person of ordinary skill in the art, we agree with Appellants that the Examiner has not made out a case of prima facie obviousness.”)

No Prima Facie Case of Obviousness

In view of the arguments set forth herein, Appellant submits that Claims 1 and 12 are patentable over the cited references based on at least the following elements:

- 1) determining that a user has previously indicated a preference for input before changing temperature settings,
- 2) before automatically changing a temperature setting, prompting a user for input,
- 3) receiving user input to keep the non-occupied setting, and

4) keeping the non-occupancy setting.

Thus, in order to establish a prima facie case of obviousness for the pending claims, references must be presented that when combined, have each and every claim element. However, none of cited references even when combined suggests such elements. Accordingly, Applicant asserts that Claim 1 is not obvious in view of the cited references.

Applicant therefore respectfully submits that Claim 1 is patentably distinguished over the cited references and Applicant respectfully requests allowance of Claim 1.

Claims 3, 4, 7, and 9-11

Claims 3, 4, 7, and 9-11 depend from amended Claim 1 and are believed to be patentable for the same reasons articulated above with respect to amended Claim 1, and because of the additional features recited therein.

Claim 11

In this response, Claim 11 has been canceled; thus the rejection associated with Claim 11 is now moot.

Claims 14, 15, 18, 20, and 21

Claims 14, 15, 18, 20, and 21 depend from amended Claim 12 and are believed to be patentable for the same reasons articulated above with respect to amended Claim 12, and because of the additional features recited therein.

Claim 22

In this response, Claim 22 has been canceled; thus the rejection associated with Claim 22 is now moot.

REJECTION OF CLAIMS 2, 5, 6, 13, 16, AND 17 UNDER 35 U.S.C. §103(a)

Claims 2, 5, 6, 13, 16, and 17 were rejected under 35 U.S.C. §103(a) as being unpatentable over Podgorny in view of Wang, Johnson Controls or Emerson Climate Technologies as applied to Claims 1 and 12, and further in view of U.S. Patent No. 5,977,964 to Williams, et al. (hereinafter "Williams").

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Claims 2, 5 and 6

Applicant notes that Claims 2, 5, and 6 depend from amended Claim 1 and are believed to be patentable for the same reasons articulated above with respect to amended Claim 1, and because of the additional features recited therein.

Claims 13, 16, and 17

Applicant notes that Claims 13, 16, and 17 depend from amended Claim 12 and are believed to be patentable for the same reasons articulated above with respect to amended Claim 12, and because of the additional features recited therein.

OTHER APPLICATIONS OF ASSIGNEE

Applicant wishes to draw the Examiner's attention to the following applications owned by of the present application's assignee:

| Inventors | Appl. No. | Filing Date | Attorney Docket No. | Title |
|------------------|-------------------------------------|--------------------|----------------------------|---|
| Steinberg et al. | 60/963,183 Now Expired | 08/03/07 | EFACT.003PR | System And Method For Using A Network Of Thermostats As Tool To Verify Peak Demand Reduction |
| Steinberg et al. | 60/944,011 Now Expired | 09/17/07 | EFACT.005PR | System And Method For Calculating The Thermal Mass Of A Building |
| Steinberg et al. | 12/183,990 Now Pat. 7,908,117 | 07/31/08 | EFACT.003A | System And Method For Using A Network Of Thermostats As Tool To Verify Peak Demand Reduction |
| Steinberg et al. | 12/183,949 Now Pat. 7,908,116 | 07/31/08 | EFACT.004A | System And Method For Using A Network Of Thermostats As Tool To Verify Peak Demand Reduction |
| Steinberg et al. | 12/211,733 Now Pat. 7,848,900 | 09/16/08 | EFACT.005A | System And Method For Calculating The Thermal Mass Of A Building |
| Steinberg et al. | 12/211,690 Now Pat. 8,019,567 | 09/16/08 | EFACT.006A | System And Method For Evaluating Changes In The Efficiency Of An HVAC System |
| Steinberg | 61/215,816 Now Expired | 05/11/09 | EFACT.008PR | System, Method And Apparatus For Dynamically Variable Compressor Delay In Thermostat To Reduce Energy Consumption |
| Steinberg et al. | 61/215,657 Now Expired | 05/08/09 | EFACT.009PR | System, Method And Apparatus For Just-In-Time Conditioning Using A Thermostat |

Application No.: 12/502,064
Filing Date: July 13, 2009

| Inventors | Appl. No. | Filing Date | Attorney Docket No. | Title |
|------------------|---|-------------|---------------------|--|
| Steinberg et al. | 61/215,999 Now Expired | 05/12/09 | EFACT.007PR | System, Method And Apparatus For Identifying Manual Inputs To And Adaptive Programming Of A Thermostat |
| Cheung et al. | 12/498,142 Now Pat. 8,010,237 | 07/06/09 | EFACT.010A | System And Method For Using Ramped Setpoint Temperature Variation With Networked Thermostats To Improve Efficiency |
| Steinberg | 12/502,064 Published 2010/0280667 | 07/13/09 | EFACT.011A | System And Method For Using A Networked Electronic Device As An Occupancy Sensor For An Energy Management System |
| Steinberg et al. | 12/773,690 Published 2010/0318227 | 05/04/10 | EFACT.009A | System, Method And Apparatus For Just-In-Time Conditioning Using A Thermostat |
| Steinberg | 12/774,580 Published 2010/0282857 | 05/05/10 | EFACT.008A | System, Method And Apparatus For Dynamically Variable Compressor Delay In Thermostat To Reduce Energy Consumption |
| Steinberg et al. | 12/778,052 Published 2010/0308119 | 05/11/10 | EFACT.007A | System, Method And Apparatus For Identifying Manual Inputs To And Adaptive Programming Of A Thermostat |
| Steinberg | 12/788,246 Pending | 05/26/10 | EFACT.012A | System And Method For Using A Mobile Electronic Device To Optimize An Energy Management System |
| Steinberg | 12/860,821 Now Pat. 8,090,477 | 08/20/10 | EFACT.013A | System And Method For Optimizing Use Of Plug-In Air Conditioners And Portable Heaters |
| Steinberg et al. | 12/959,225 Published 2011/0077896 | 12/02/10 | EFACT.005C1 | System And Method For Calculating The Thermal Mass Of A Building |
| Steinberg et al. | 13/037,162 Published 2011/0166828 | 02/28/11 | EFACT.004C1 | System And Method For Using A Network Of Thermostats As Tool To Verify Peak Demand Reduction |
| Cheung et al. | 13/219,381 Published 2011/0307103 | 08/26/11 | EFACT.010C1 | System And Method For Using Ramped Setpoint Temperature Variation With Networked Thermostats To Improve Efficiency |
| Steinberg et al. | 13/230,610 Pending | 09/12/11 | EFACT.006C1 | System And Method For Evaluating Changes In The Efficiency Of An HVAC System |

Application No.: 12/502,064
Filing Date: July 13, 2009

| Inventors | Appl. No. | Filing Date | Attorney Docket No. | Title |
|------------------|-----------------------|--------------------|----------------------------|---|
| Steinberg | 13/329,117 Pending | 12/16/11 | EFACT.013C1 | System And Method For Optimizing Use Of Plug-In Air Conditioners And Portable Heaters |

Applicant notes that cited references, office actions, responses and notices of allowance currently exist or will exist for the above-referenced matters. Applicant also understands that the Examiner has access to sophisticated online Patent Office computing systems that provide ready access to the full file histories of these matters including, for example, specifications, drawings, pending claims, cited art, office actions, responses, declarations, and notices of allowance.

Rather than submit these file histories, Applicant respectfully requests that the Examiner continue to review these file histories online for past, current, and future information about these matters. Also, if the Examiner cannot readily access these file histories, the Applicant would be pleased to provide any portion of any of the file histories at any time upon specific Examiner request.

NO DISCLAIMERS OR DISAVOWALS

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application.

Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution.

Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

Application No.: 12/502,064
Filing Date: July 13, 2009

CONCLUSION

Applicants have endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. In light of the above remarks, reconsideration and withdrawal of the outstanding rejections is specifically requested.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

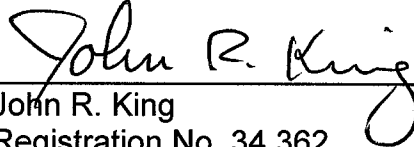
Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: _____

3/1/2012

By: _____



John R. King
Registration No. 34,362
Attorney of Record
Customer No. 20,995
(949) 760-0404

12859216
030112

Electronic Patent Application Fee Transmittal

| | |
|---|--|
| Application Number: | 12502064 |
| Filing Date: | 13-Jul-2009 |
| Title of Invention: | SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM |
| First Named Inventor/Applicant Name: | John Douglas Steinberg |
| Filer: | John R. King/Amy Durrant |
| Attorney Docket Number: | EFACT.011A |

Filed as Small Entity

Utility under 35 USC 111(a) Filing Fees

| Description | Fee Code | Quantity | Amount | Sub-Total in USD(\$) |
|--|----------|----------|-----------------------|----------------------|
| Basic Filing: | | | | |
| Pages: | | | | |
| Claims: | | | | |
| Miscellaneous-Filing: | | | | |
| Petition: | | | | |
| Patent-Appeals-and-Interference: | | | | |
| Post-Allowance-and-Post-Issuance: | | | | |
| Extension-of-Time: | | | | |
| Extension - 2 months with \$0 paid | 2252 | 1 | ecobee, IPR2021-01052 | 280 |

| Description | Fee Code | Quantity | Amount | Sub-Total in USD(\$) |
|--------------------------|----------|----------|--------|----------------------|
| Miscellaneous: | | | | |
| Total in USD (\$) | | | | 280 |

Electronic Acknowledgement Receipt

| | |
|---|--|
| EFS ID: | 12205743 |
| Application Number: | 12502064 |
| International Application Number: | |
| Confirmation Number: | 5514 |
| Title of Invention: | SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM |
| First Named Inventor/Applicant Name: | John Douglas Steinberg |
| Customer Number: | 20995 |
| Filer: | John R. King/Erica Van Sciver |
| Filer Authorized By: | John R. King |
| Attorney Docket Number: | EFACT.011A |
| Receipt Date: | 01-MAR-2012 |
| Filing Date: | 13-JUL-2009 |
| Time Stamp: | 18:18:17 |
| Application Type: | Utility under 35 USC 111(a) |

Payment information:

| | |
|--|-------------------------------|
| Submitted with Payment | yes |
| Payment Type | Credit Card |
| Payment was successfully received in RAM | \$280 |
| RAM confirmation Number | 6459 |
| Deposit Account | 111410 |
| Authorized User | KNOBBE MARTENS OLSON AND BEAR |

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

Charge any Additional Fees required under 37 C.F.R. Section 1.16 (National application filing, search, and examination fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.17 (Patent application and reexamination processing fees)

ecobee, IPR2021-01052

File Listing:

| Document Number | Document Description | File Name | File Size(Bytes)/ Message Digest | Multi Part /.zip | Pages (if appl.) |
|---|----------------------|-------------------------|---|------------------|------------------|
| 1 | | EFACT-011A_response.pdf | 712609 <small>615b196e9f922902fa4ff16df0e97f26681db70c</small> | yes | 17 |
| Multipart Description/PDF files in .zip description | | | | | |
| Document Description | | | Start | End | |
| Amendment/Req. Reconsideration-After Non-Final Reject | | | 1 | 1 | |
| Claims | | | 2 | 6 | |
| Applicant summary of interview with examiner | | | 7 | 8 | |
| Applicant Arguments/Remarks Made in an Amendment | | | 9 | 17 | |
| Warnings: | | | | | |
| Information: | | | | | |
| 2 | Fee Worksheet (SB06) | fee-info.pdf | 30951 <small>83b82adaf2f02ddfd4d96fb795caba2115681ddc3</small> | no | 2 |
| Warnings: | | | | | |
| Information: | | | | | |
| Total Files Size (in bytes): | | | 743560 | | |
| <p>This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.</p> <p><u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.</p> <p><u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.</p> <p><u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.</p> | | | | | |

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

| | | | |
|---|---|----------------------------------|---------------------------------------|
| PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875 | Application or Docket Number 12/502,064 | Filing Date 07/13/2009 | <input type="checkbox"/> To be Mailed |
|---|---|----------------------------------|---------------------------------------|

| APPLICATION AS FILED – PART I | | | OTHER THAN SMALL ENTITY | | | |
|---|---|--------------|--|----------|-----------|----------|
| | (Column 1) | (Column 2) | SMALL ENTITY <input checked="" type="checkbox"/> | OR | | |
| FOR | NUMBER FILED | NUMBER EXTRA | RATE (\$) | FEE (\$) | RATE (\$) | FEE (\$) |
| <input type="checkbox"/> BASIC FEE <small>(37 CFR 1.16(a), (b), or (c))</small> | N/A | N/A | N/A | | N/A | |
| <input type="checkbox"/> SEARCH FEE <small>(37 CFR 1.16(k), (j), or (m))</small> | N/A | N/A | N/A | | N/A | |
| <input type="checkbox"/> EXAMINATION FEE <small>(37 CFR 1.16(o), (p), or (q))</small> | N/A | N/A | N/A | | N/A | |
| TOTAL CLAIMS <small>(37 CFR 1.16(j))</small> | minus 20 = | * | X \$ = | OR | X \$ = | |
| INDEPENDENT CLAIMS <small>(37 CFR 1.16(h))</small> | minus 3 = | * | X \$ = | | X \$ = | |
| <input type="checkbox"/> APPLICATION SIZE FEE <small>(37 CFR 1.16(s))</small> | If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s). | | | | | |
| <input type="checkbox"/> MULTIPLE DEPENDENT CLAIM PRESENT <small>(37 CFR 1.16(j))</small> | | | | | | |
| * If the difference in column 1 is less than zero, enter "0" in column 2. | | | TOTAL | | TOTAL | |

| APPLICATION AS AMENDED – PART II | | | | | OTHER THAN SMALL ENTITY | | | |
|----------------------------------|---|----------------------------------|------------------------------------|---------------|-------------------------|---------------------|-----------|---------------------|
| | (Column 1) | (Column 2) | (Column 3) | | | | | |
| AMENDMENT | 03/01/2012 | CLAIMS REMAINING AFTER AMENDMENT | HIGHEST NUMBER PREVIOUSLY PAID FOR | PRESENT EXTRA | RATE (\$) | ADDITIONAL FEE (\$) | RATE (\$) | ADDITIONAL FEE (\$) |
| | Total <small>(37 CFR 1.16(i))</small> | * 18 | Minus ** 22 | = 0 | X \$30 = | 0 | OR | X \$ = |
| | Independent <small>(37 CFR 1.16(h))</small> | * 2 | Minus *** 3 | = 0 | X \$125 = | 0 | OR | X \$ = |
| | <input type="checkbox"/> Application Size Fee <small>(37 CFR 1.16(s))</small> | | | | | | OR | |
| | <input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM <small>(37 CFR 1.16(j))</small> | | | | | | OR | |
| | | | | | TOTAL ADD'L FEE | 0 | OR | TOTAL ADD'L FEE |

| | | | | | | | | |
|---|---|----------------------------------|------------------------------------|---------------|---|---------------------|-----------|---------------------|
| | (Column 1) | (Column 2) | (Column 3) | | | | | |
| AMENDMENT | | CLAIMS REMAINING AFTER AMENDMENT | HIGHEST NUMBER PREVIOUSLY PAID FOR | PRESENT EXTRA | RATE (\$) | ADDITIONAL FEE (\$) | RATE (\$) | ADDITIONAL FEE (\$) |
| | Total <small>(37 CFR 1.16(i))</small> | * | Minus ** | = | X \$ = | | OR | X \$ = |
| | Independent <small>(37 CFR 1.16(h))</small> | * | Minus *** | = | X \$ = | | OR | X \$ = |
| | <input type="checkbox"/> Application Size Fee <small>(37 CFR 1.16(s))</small> | | | | | | OR | |
| | <input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM <small>(37 CFR 1.16(j))</small> | | | | | | OR | |
| | | | | | TOTAL ADD'L FEE | | OR | TOTAL ADD'L FEE |
| * If the entry in column 1 is less than the entry in column 2, write "0" in column 3. | | | | | Legal Instrument Examiner: /STELLA LITTLE/ | | | |
| ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20". | | | | | | | | |
| *** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3". | | | | | | | | |
| The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1. | | | | | | | | |

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
 If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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www.uspto.gov

Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
12/502,064 07/13/2009 John Douglas Steinberg EFACT.011A 5514

20995 7590 02/17/2012
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER

ROBERTSON, DAVID

ART UNIT PAPER NUMBER

2121

NOTIFICATION DATE DELIVERY MODE

02/17/2012

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
efiling@kmob.com
eOAPilot@kmob.com

| | | | |
|---|--------------------------------------|---|--|
| <i>Applicant-Initiated Interview Summary</i> | Application No. 12/502,064 | Applicant(s) STEINBERG, JOHN DOUGLAS | |
| | Examiner Dave Robertson | Art Unit 2121 | |

All participants (applicant, applicant's representative, PTO personnel):

- (1) Dave Robertson. (3) John Steinberg (Applicant).
(2) Atty John King (Reg. No. 34,362). (4) _____.

Date of Interview: 07 February 2012.

Type: Telephonic Video Conference
 Personal [copy given to: applicant applicant's representative]

Exhibit shown or demonstration conducted: Yes No.
If Yes, brief description: _____.

Issues Discussed 101 112 102 103 Others
(For each of the checked box(es) above, please describe below the issue and detailed description of the discussion)

Claim(s) discussed: 1.

Identification of prior art discussed: _____.

Substance of Interview

(For each issue discussed, provide a detailed description and indicate if agreement was reached. Some topics may include: identification or clarification of a reference or a portion thereof, claim interpretation, proposed amendments, arguments of any applied references etc...)

Discussed proposed and further clarifying amendments to claim 1 in view of distinctions and advantages of the present invention over the prior art and as described generally in the marketplace by Applicant. No agreement reached on allowability, however, Examiner indicated particular amendments capturing discussion and filed in response with Remarks thereto, subject to final search and consideration, may give rise to allowability, and recommended further exchange of potential claim amendments to be followed by submission of same in response, with remarks arguing claimed distinction(s) over the prior art of record and/or as previously applied. Representative agreed to recordation of Interview Summary herein in lieu of copy provided at interview.

Applicant recordation instructions: The formal written reply to the last Office action must include the substance of the interview. (See MPEP section 713.04). If a reply to the last Office action has already been filed, applicant is given a non-extendable period of the longer of one month or thirty days from this interview date, or the mailing date of this interview summary form, whichever is later, to file a statement of the substance of the interview

Examiner recordation instructions: Examiners must summarize the substance of any interview of record. A complete and proper recordation of the substance of an interview should include the items listed in MPEP 713.04 for complete and proper recordation including the identification of the general thrust of each argument or issue discussed, a general indication of any other pertinent matters discussed regarding patentability and the general results or outcome of the interview, to include an indication as to whether or not agreement was reached on the issues raised.

Attachment

/Dave Robertson/
Primary Examiner, Art Unit 2121

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

| | | | |
|--|--------------------------------------|---|--|
| Applicant-Initiated Interview Summary | Application No. 12/502,064 | Applicant(s) STEINBERG, JOHN DOUGLAS | |
| | Examiner Dave Robertson | Art Unit 2121 | |

All participants (applicant, applicant's representative, PTO personnel):

- (1) Dave Robertson. (3) Inventor John Steinberg.
(2) Atty John King. (4) _____.

Date of Interview: 26 August 2011.

Type: Telephonic Video Conference
 Personal [copy given to: applicant applicant's representative]

Exhibit shown or demonstration conducted: Yes No.
If Yes, brief description: _____.

Issues Discussed 101 112 102 103 Others
(For each of the checked box(es) above, please describe below the issue and detailed description of the discussion)

Claim(s) discussed: 1 and 12.

Identification of prior art discussed: Johnson Controls T600HCx-3 Single-Stage Thermostats Installation Instructions T600HCN-3; Emerson Climate Technologies. Network Thermostat for E2 Building Controller Installation and Operation Manua; Wang, D.; Arens, E.; Federspiel, C.. Opportunities to Save Energy and Improve Comfort by Using Wireless Sensor Networks in Buildings (see 892 attached herewith for complete citation).

Substance of Interview

(For each issue discussed, provide a detailed description and indicate if agreement was reached. Some topics may include: identification or clarification of a reference or a portion thereof, claim interpretation, proposed amendments, arguments of any applied references etc...)

Discussed amendment of 8/2/2001 wrt 112(2) rejection previously made. Examiner agreed present amendments overcome rejections under 112(2) and that claims are supported by the disclosure. Examiner called attention to page 7 of the prior office action (3/3/2011) as stating that allowance over Podgorny et al. may be negated by amendments that render the claims definite, because prior indication of allowability was explained as based on the best interpretation possible from the plain meaning of the words in the claim in light of the specification. Examiner indicated that with the present amendments, while satisfying 112, could be rejected over Podgorny et al. in view of additional prior art. Discussion of the potential rejection of Podgorney et al. in view of either Emerson or Johnson Controls (as above and cited in the office action herewith), and further in view of Wang and Federspiel et al. did not result in any agreement. Examiner recommended issuing an office action with the new grounds of rejection over amended claims to afford Applicant opportunity to fully consider the prior art and response. Examiner indicated further interview may be warranted and welcomed after Applicant receipt and review of forthcoming office action.

Applicant recordation instructions: The formal written reply to the last Office action must include the substance of the interview. (See MPEP section 713.04). If a reply to the last Office action has already been filed, applicant is given a non-extendable period of the longer of one month or thirty days from this interview date, or the mailing date of this interview summary form, whichever is later, to file a statement of the substance of the interview

Examiner recordation instructions: Examiners must summarize the substance of any interview of record. A complete and proper recordation of the substance of an interview should include the items listed in MPEP 713.04 for complete and proper recordation including the identification of the general thrust of each argument or issue discussed, a general indication of any other pertinent matters discussed regarding patentability and the general results or outcome of the interview, to include an indication as to whether or not agreement was reached on the issues raised.

Attachment

/Dave Robertson/
Primary Examiner, Art Unit 2121

Summary of Record of Interview Requirements**Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record**

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner, (The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.



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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO. Includes details for application 12/502,064 filed 07/13/2009 by John Douglas Steinberg, attorney EFACT.011A, examiner ROBERTSON, DAVID, art unit 2121, notification date 10/04/2011, and delivery mode ELECTRONIC.

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
efiling@kmob.com
eOAPilot@kmob.com

| | | | |
|------------------------------|------------------------|-------------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 12/502,064 | STEINBERG, JOHN DOUGLAS | |
| | Examiner | Art Unit | |
| | Dave Robertson | 2121 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 02 August 2011.
- 2a) This action is **FINAL**.
- 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7,9-18 and 20-22 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-7,9-18 and 20-22 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 - 1. Certified copies of the priority documents have been received.
 - 2. Certified copies of the priority documents have been received in Application No. _____.
 - 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date 8/2/2011.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. attached.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

1. This is a Non-final office action in response to Applicant's reply of 8/2/2011. Claims 1-7, 9-18, and 20-22 are pending.

Response to Amendment

2. Applicant amends claims 1 and 12 to clarify the invention and in response to rejections previously made under 35 U.S.C. 112, 2nd paragraph. Accordingly, the rejections are withdrawn.
3. Applicant's amendments substantively distinguish the present invention from the scope of claims previously presented for which an interpretation was taken for examination on the merits and an indication of allowability *based on the interpretation* and conditioned on overcoming the rejection under 112, 2nd paragraph, was made. While the present amendments overcome the 112, 2nd paragraph, rejection, the scope of claim is not the scope of claims previously presented. Accordingly, the indication of allowability of claims 1-7, 9-18, and 20-22 as set forth in the previous office action (of 3/3/201, see page 6) is withdrawn.

Response to Arguments

2. Applicant's arguments with respect to claims 1 and 12 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 1, 3, 4, 7, 9-12, 14, 15, 18, and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Podgorny et al. (US 20080281472 A1) in view of Wang et al. ("Opportunities to Save Energy and Improve Comfort by Using Wireless Sensor Networks in Buildings," 2003) and either of Johnson Controls (T600HCx-3 Single-Stage Thermostats Installation Instructions T600HCN-3, T600HCP-3 Part No. 24-9890-560, 2006) or Emerson Climate Technologies (Network Thermostat for E2 Building Controller Installation and Operation Manual, 2007).

Claim 1

Podgorny et al. teaches **a method for varying temperature setpoints for an HVAC system** (Abstract) **comprising:**

storing at least a first HVAC temperature setpoint associated with a structure that is deemed to be non-occupied and at least a second HVAC temperature setpoint associated a said structure deemed to be occupied (see ¶[0009, 0019, 0028, 0092] see also Table 2, occupancy and high/low min/max temperature setting fields);

determining whether one or more networked electronic devices inside said structure are in use (see ¶[0083]),

wherein said networked electronic devices comprise a graphic[al] user interface, comprising a display (see ¶[0027,0067,0080]),

wherein said networked electronic devices receive input from one or more users (see ¶[0027]), wherein use of said networked electronic devices comprises at least one of cursor movement, keystrokes or other user interface actions intended to alter a state of one or more of said networked electronic devices by one or more users (see ¶[0083]);

However, Podgorny does not *expressly* teach as specifically recited:

determining whether said HVAC system is set to said first HVAC temperature setpoint indicating that said structure is deemed to be non-occupied;

providing electronic notice to one or more of said users of said networked electronic devices that said HVAC system is set for a non-occupied structure and offering to change said first HVAC temperature setpoint to a second HVAC temperature setpoint associated with occupancy of said structure; and

keeping said first HVAC temperature setpoint upon user response to said electronic notice.

Wang et al. (2003) expressly teaches advantage to occupant's involvement in control loops (see pg. 3, section 4.3) by allowing occupants to receive messages to help improve environmental control and reduce energy usage, including where "ideally occupants should have access to the system's control strategy, and also be able to

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override it at any time.” (pg. 4, left column). Both Johnson Controls (pgs. 10 and 12) and Emerson Climate Technologies (pg. 9) teach thermostat user interfaces which prompt users to override the unoccupied temperature settings, expressly such that in Emerson, the prompt is provided only if status is nonoccupied as in Johnson Controls where the “override prompt only appears when the thermostat is in the unoccupied state.” That, Podgorny teaches a Notification Agent (see ¶[0109,0127]) as well as a Presence Agent (¶[0083]) including full integration with occupancy sensors and notifications to a user interface, and that Wang et al. teaches advantage at providing such override capability in the form of user prompts, and further that Johnson Controls and Emerson teach prompts to the user provided only when the HVAC system is set for non-occupied status, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide such prompts, thereby involving the user advantageously in control of their environment, and whereby the effect of the user not responding to such prompt allows the system to maintain the unoccupied temperature setpoint thus reducing energy usage.

Claim 3

Podgorny et al. teaches **the method of Claim 1 in which at least one of said networked electronic devices is a personal computer** (Fig. 2B).

Claim 4

Podgorny et al. teaches **the method of Claim 1 in which at least one of said networked electronic devices is connected to the Internet** (see ¶[0024]).

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Claims 7 and 9

Podgorny et al. teaches **he method of Claim 1 in which at least one of said networked electronic devices communicates with a remote server; and in which said adjusting of said temperature setpoint is initiated by a remote computer** (see Abstract, the user controlling “over the Internet” at a remote computer).

Claim 10

Podgorny et al. teaches **the method of Claim 1 in which said first HVAC temperature setpoint is varied automatically** (see Abstract, “autonomous process control” is *automatic*).

Claim 11

Podgorny et al. teaches **the method of Claim 1 in which an occupant is prompted to confirm occupancy prior to the adjusting of said first HVAC temperature setpoint** (see rationale above for claim 1 in combination with Wang et al., the override prompt serving to *confirm occupancy*, broadly, by requiring a response to override the current unoccupied temperature setting).

Claim 12

Podgorny et al. teaches **a system for altering the setpoint on a thermostat for space conditioning of a structure** (see Abstract), **comprising:**

at least one thermostat having at least a first temperature setpoint associated with a non-occupied structure (see ¶[0195]), **and**

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at least a second temperature setpoint associated with the existence of occupants in said structure (see ¶[0009, 0019, 0028, 0092] see also Table 2, occupancy and high/low min/max temperature setting fields);

one or more electronic devices having at least a graphic[al] user interface comprising a display (see ¶[0027,0067,0080]);

wherein said electronic devices receive input from one or more users (see ¶[0027]) **wherein use of said electronic devices comprises at least one of cursor movement, keystrokes or other user interface actions intended to alter a state of one or more of said electronic devices by one or more users** (see ¶[0083])

wherein activity of one or more networked electronic devices indicates whether said thermostat should be changed from said first temperature setpoint to said second temperature setpoint (see ¶[0083, 0122]);

wherein said electronic devices and said thermostat are connected to a network (see Figure 22);

an application comprising one or more computer processors in communication with said network (see Figure 20, 22),

However, Podgorny does not *expressly* teach as specifically recited:

wherein said application determines whether said one or more electronic devices are in use and whether said thermostat is set to said first temperature setpoint that indicates said structure is not occupied,

wherein said application provides electronic notice to one or more of said users of said electronic devices that said thermostat is set for a non-occupied

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structure, and whether to keep said first temperature setpoint or change to said second temperature setpoint of a determination of non-occupancy; and

wherein said thermostat is kept at adjusted from said first temperature setpoint setting associated with the presence of one or more occupants in said structure to said temperature setting associated with the absence of occupants in said structure based upon user response to said electronic notice.

Wang et al. (2003) expressly teaches advantage to occupant's involvement in control loops (see pg. 3, section 4.3) by allowing occupants to receive messages to help improve environmental control and reduce energy usage, including where "ideally occupants should have access to the system's control strategy, and also be able to override it at any time." (pg. 4, left column). Both Johnson Controls (pgs. 10 and 12) and Emerson Climate Technologies (pg. 9) teach thermostat user interfaces which prompt users to override the unoccupied temperature settings, expressly such that in Emerson, the prompt is provided only if status is nonoccupied as in Johnson Controls where the "override prompt only appears when the thermostat is in the unoccupied state." That, Podgorny teaches a Notification Agent (see ¶[0109,0127]) as well as a Presence Agent (¶[0083]) including full integration with occupancy sensors and notifications to a user interface, and that Wang et al. teaches advantage at providing such override capability in the form of user prompts, and further that Johnson Controls and Emerson teach prompts to the user provided only when the HVAC system is set for non-occupied status, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide such prompts, thereby involving the user

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advantageously in control of their environment, and whereby the effect of the user not responding to such prompt allows the system to maintain the unoccupied temperature setpoint thus reducing energy usage.

Claims 14, 15, 18, and 20-22 recite further system features of claim 12 similarly as above for the methods of claims 3, 4, 7, 9, 10 and 11, and is/are similarly rejected for reasons given above, for the respective claim and claim elements.

6. Claim 2, 5, 6, 13, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Podgorny et al. in view of Wang et al. Johnson Controls or Emerson Climate Technologies as applied to claims 1 and 12 above, and further in view of Williams et al. (US Pat. No. 5,977,964)

Podgorny et al. does not expressly teach **at least one of said networked electronic devices is a television; in which programming being watched or listened to using at least one of said networked electronic devices is used to determine which occupant of said structure is likely to be present, and the second HVAC temperature setpoint for said thermostatic controller is selected based upon the preferences of the occupant determined to be using said at least one networked electronic device; or in which at least one of said networked electronic devices is a game console.**

Williams et al. expressly teaches selecting the second temperature setpoint (occupied setting) in response to identifying the user based on the programming being watched on a television (see Figure 1; Abstract; column 5, lines 20-40) or a game

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console (see column 5, lines 25-30: computer used to access Internet Games is a “games console”). As Podgorny expressly also identifies the specific user (see ¶[0082]) by Presence Monitoring by various means including keyboard activity and biometrics to select environmental settings including temperature settings, it would have been obvious to one of ordinary skill in the art at the time of the invention that the electronic device of Podgorny may be an electronics device such as a television or game console, thereby expanding the range of devices known in the art for monitoring to indicate occupancy and more precisely identify particular users.

Conclusion

7. The prior art made of record and listed on the attached PTO Form 892 but not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Robertson whose telephone number is (571)272-8220. The examiner can normally be reached on Weekdays 8:15 am to 4:15 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on (571) 272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dave Robertson/
Examiner, Art Unit 2121

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|-----------------------------------|---------------------------------------|--|-------------|
| Notice of References Cited | Application/Control No. 12/502,064 | Applicant(s)/Patent Under Reexamination STEINBERG, JOHN DOUGLAS | |
| | Examiner Dave Robertson | Art Unit 2121 | Page 1 of 1 |

U.S. PATENT DOCUMENTS

| * | Document Number Country Code-Number-Kind Code | Date MM-YYYY | Name | Classification | |
|---|--|--------------------|---------|----------------|-------------|
| * | A | US-5,261,481 A | 11-1993 | Baldwin et al. | 165/237 |
| * | B | US-5,761,083 A | 06-1998 | Brown et al. | 700/296 |
| * | C | US-7,354,005 B2 | 04-2008 | Carey et al. | 236/46R |
| * | D | US-2008/0283621 A1 | 11-2008 | QUIRINO et al. | 236/1.C |
| * | E | US-7,565,225 B2 | 07-2009 | Dushane et al. | 700/276 |
| * | F | US-2010/0019051 A1 | 01-2010 | Rosen, Howard | 236/46.R |
| * | G | US-7,802,618 B2 | 09-2010 | Simon et al. | 165/254 |
| * | H | US-2007/0045431 | 03-2007 | Chapman et al. | 236/046.00C |
| | I | US- | | | |
| | J | US- | | | |
| | K | US- | | | |
| | L | US- | | | |
| | M | US- | | | |


FOREIGN PATENT DOCUMENTS

| * | Document Number Country Code-Number-Kind Code | Date MM-YYYY | Country | Name | Classification |
|---|--|-----------------|---------|------|----------------|
| | N | | | | |
| | O | | | | |
| | P | | | | |
| | Q | | | | |
| | R | | | | |
| | S | | | | |
| | T | | | | |

NON-PATENT DOCUMENTS

| * | Document Number Country Code-Number-Kind Code | Date MM-YYYY | Country | Name | Classification | |
|---|---|---|---------|------|----------------|--|
| | Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages) | | | | | |
| | U | Wang, D.; Arens, E.; Federspiel, C.. Opportunities to Save Energy and Improve Comfort by Using Wireless Sensor Networks in Buildings. Energy Systems Laboratory (http://esl.tamu.edu), 2003 [Retrieved 9/1/2011] Downloaded from http://repository.tamu.edu/handle/1969.1/5210]. | | | | |
| | V | Johnson Controls T600HCx-3 Single-Stage Thermostats Installation Instructions T600HCN-3, T600HCP-3 Part No. 24-9890-560, Rev. — Issued September 20, 2006 | | | | |
| | W | Emerson Climate Technologies. Network Thermostat for E2 Building Controller Installation and Operation Manual. 026-1721 Rev 0 10/30/2007. | | | | |
| | X | | | | | |

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

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| Search Notes  | Application/Control No. 12502064 | Applicant(s)/Patent Under Reexamination STEINBERG, JOHN DOUGLAS |
| | Examiner Dave Robertson | Art Unit 2121 |

| SEARCHED | | | |
|----------|--------------------|-----------|----------|
| Class | Subclass | Date | Examiner |
| 700 | 276 | 9/28/2010 | dcr |
| 62 | 176.6 | 2/26/2011 | dcr |
| 236 | 46R | 2/26/2011 | dcr |
| 700 | 276, 278, 295, 296 | 2/26/2011 | dcr |
| | (updated) | 8/22/2011 | dcr |

| SEARCH NOTES | | |
|--|-----------|----------|
| Search Notes | Date | Examiner |
| EAST (USPAT, PgPUB, Derwent - see complete search history in application file) | 9/29/2010 | dcr |
| "236"/\$ "700"/\$ "340"/\$ (text-limited and cross-classification search - see search history) | 9/28/2010 | dcr |
| EAST (updated) | 2/26/2011 | dcr |
| EAST (text limited, targeted limitation search - see EAST search note) | 8/22/2011 | dcr |
| STIC (EIC 2100) search (see search strategy note in application file) | 8/19/2011 | dcr |
| EAST (updated, targeted limitation search, see search note) | 8/29/2011 | dcr |

| INTERFERENCE SEARCH | | | |
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| Class | Subclass | Date | Examiner |
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| | /DAVE ROBERTSON/ Primary Examiner.Art Unit 2121 |
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File 347: JAPI O Dec 1976- 2011/ APR(Updat ed 110807)
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File 350: Derwent WPI X 1963- 2011/ UD=201152
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| Set | Items | Description |
|-----|---------|--|
| S1 | 7799704 | OCCUPAN? OR OCCUPY? OR OCCUPIE? ? OR INHABIT? OR PRESENT? - OR PRESENCE? OR ACTIV? OR MOTION? OR MOVEMENT? OR MOVING? OR - MOVE? ? OR KEYSTROKE? OR KEY() STROKE? OR (BUTTON? OR MOUSE?) (- 2N) (PRESS? OR CLICK? OR DOUBLECLICK?) OR UNOCCUPAN? OR UNOCCU- PY? OR UNOCCUPIE? ? OR NONOCCUP? OR UNINHABIT? |
| S2 | 3401381 | (NETWORK? OR DEVICE? ? OR APPLIANCE? ? OR APPARATUS?? OR E- LECTRONICS OR COMPUTER? OR PHONE? ? OR CELLPHONE? OR SMARTPHO- NE? OR PDA OR PDAS OR PERSONAL() DIGITAL() ASSI STANT? OR BLACKB- ERR??? OR CONSOLE? ? OR (GAME? ? OR GAMING) (1N) MACHINE? ? OR - TV OR TELEVISION?) (2N) (USE OR USES OR USED OR USING? OR USAGE? OR UTILIZ? OR UTILIS? OR TRAFFIC? OR OPERAT? OR ON OR VIEW - OR VIEWED OR VIEWING?) |
| S3 | 936131 | S1: S2(5N) (DETERM N? OR DETECT? OR FIND??? OR FOUND OR LOCA- T? OR IDENTIF? OR DISCOVER? OR SENS??? OR LEARN??? OR RECOGNI? OR NOTIC? OR ASCERTAIN? OR DISCERN?) |
| S4 | 3049946 | USER? ? OR PERSON? ? OR PEOPLE? OR INDIVIDUAL? OR EMPLOYE?? OR WORKER? ? OR COWORKER? ? OR STUDENT? ? OR INHABITANT? OR - RESIDENT? OR OCCUPANT? OR DWELLER? ? OR TENANT? ? OR GUEST? ? OR ENTITY? OR ENTITIE? ? OR VI EVER? ? OR PLAYER? ? OR WHO |
| S5 | 166164 | S4(5N) (PROMPT? OR ASK??? OR INQUIR? OR ENQUIR? OR QUERY??? OR QUERIE? ? OR QUESTION? OR SUMMON? OR SOLICIT? OR NOTIC? OR NOTIF? OR MESSAGE? OR MESSAGING? OR POPUP? OR POP() (UP OR UPS) OR CONFIRM? OR VALIDAT? OR VERIF?) |
| S6 | 3651692 | HVAC OR CLIMATE() CONTROL? OR HEATING 1W (COOLING? OR AIR() - CONDI TI ONING? OR VENTI LATION?) OR THERMOSTAT? OR TEMPERATURE? OR WARM???? OR COOL???? OR HUMID? |
| S7 | 359787 | S6(3N) (SETPOINT? OR SET() POINT? OR SETTING? ? OR PROGRAM? ? OR PROGRAMMING? OR LEVEL? ? OR CONTROL?) |
| S8 | 44279 | S7(7N) (CHANG? OR MODIF? OR ALTER? OR AMEND? OR ADJUST? OR - ADAPT? OR SWITCH? OR OVERRID? OR OVER() RID??? OR SUPERSED? OR IGNOR? OR DISREGARD? OR ACCEPT? OR REPLAC?) |
| S9 | 23 | S5(20N) S8 |
| S10 | 1 | S3 AND S9 |
| S11 | 22 | S9 NOT S10 |
| S12 | 14 | (S11 AND PY=1963:2008) OR (S11 AND AY=1963:2008 AND AC=US) |
| S13 | 14 | IDPAT S12 (sorted in dupli cate/ non-dupli cate order) |
| S14 | 34 | S3 AND S5 AND S8 |
| S15 | 33 | S14 NOT (S10 OR S11) |
| S16 | 26 | (S15 AND PY=1963:2008) OR (S15 AND AY=1963:2008 AND AC=US) |
| S17 | 26 | IDPAT S16 (sorted in dupli cate/ non-dupli cate order) |

File 348: EUROPEAN PATENTS 1978-201132
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File 349: PCT FULLTEXT 1979-2011/UB=20110811|UT=20110804
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| Set | Items | Description |
|-----|---------|---|
| S1 | 3142620 | OCCUPAN? OR OCCUPY? OR OCCUPIE? ? OR INHABIT? OR PRESENT? - OR PRESENCE? OR ACTIVE? OR MOTION? OR MOVEMENT? OR MOVING? OR - MOVE? ? OR KEYSTROKE? OR KEY() STROKE? OR (BUTTON? OR MOUSE?)(- 2N)(PRESS? OR CLICK? OR DOUBLECLICK?) OR UNOCCUPAN? OR UNOCCU- PY? OR UNOCCUPIE? ? OR NONOCCUP? OR UNINHABIT? |
| S2 | 1199424 | (NETWORK? OR DEVICE? ? OR APPLIANCE? ? OR APPARATUS?? OR E- LECTRONICS OR COMPUTER? OR PHONE? ? OR CELLPHONE? OR SMARTPHO- NE? OR PDA OR PDAS OR PERSONAL() DIGITAL() ASSI STANT? OR BLACKB- ERR??? OR CONSOLE? ? OR (GAME? ? OR GAMING)(1N) MACHINE? ? OR - TV OR TELEVISION?)(2N)(USE OR USES OR USED OR USING? OR USAGE? OR UTILIZ? OR UTILIS? OR TRAFFIC? OR OPERAT? OR ON OR VIEW - OR VIEWED OR VIEWING?) |
| S3 | 1037010 | S1: S2(5N)(DETERMINE? OR DETECT? OR FIND??? OR FOUND OR LOCA- T? OR IDENTIFY? OR DISCOVER? OR SENS??? OR LEARN??? OR RECOGNI? OR NOTIC? OR ASCERTAIN? OR DISCERN?) |
| S4 | 2036522 | USER? ? OR PERSON? ? OR PEOPLE? OR INDIVIDUAL? OR EMPLOYEE? OR - WORKER? ? OR COWORKER? ? OR STUDENT? ? OR INHABITANT? OR - RESIDENT? OR OCCUPANT? OR DWELLER? ? OR TENANT? ? OR GUEST? ? OR ENTITY? OR ENTITIE? ? OR VIEVER? ? OR PLAYER? ? OR WHO |
| S5 | 175563 | S4(5N)(PROMPT? OR ASK??? OR INQUIR? OR ENQUIR? OR QUERY??? OR QUERIE? ? OR QUESTION? OR SUMMON? OR SOLICIT? OR NOTIC? OR NOTIF? OR MESSAGE? OR MESSAGING? OR POPUP? OR POP()(UP OR UPS) OR CONFIRM? OR VALIDAT? OR VERIFY?) |
| S6 | 1507469 | HVAC OR CLIMATE() CONTROL? OR HEATING 1W (COOLING? OR AIR()- CONDI TIONING? OR VENTILATION?) OR THERMOSTAT? OR TEMPERATURE? OR WARM???? OR COOL???? OR HUMID? |
| S7 | 228040 | S6(3N)(SETPOINT? OR SET() POINT? OR SETTING? ? OR PROGRAM? ? OR PROGRAMMING? OR LEVEL? ? OR CONTROL?) |
| S8 | 31555 | S7(7N)(CHANG? OR MODIF? OR ALTER? OR AMEND? OR ADJUST? OR - ADAPT? OR SWITCH? OR OVERRID? OR OVER()RID??? OR SUPERSED? OR I GNORE? OR DISREGARD? OR ACCEPT? OR REPLAC?) |
| S9 | 38 | S5(20N) S8 |
| S10 | 5 | S3(100N) S9 |
| S11 | 33 | S9 NOT S10 |
| S12 | 26 | (S11 AND PY=1978:2008) OR (S11 AND AY=1978:2008 AND AC=US) |
| S13 | 26 | IDPAT S12 (sorted in duplicate/non-duplicate order) |
| S14 | 41 | S3(100N) S5(100N) S8 |
| S15 | 35 | S14 NOT (S10 OR S11) |
| S16 | 25 | (S15 AND PY=1978:2008) OR (S15 AND AY=1978:2008 AND AC=US) |
| S17 | 25 | IDPAT S16 (sorted in duplicate/non-duplicate order) |

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(c) 2011 The HWWilson Co

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| Set | Items | Description |
|-----|----------|--|
| S1 | 29258183 | OCCUPAN? OR OCCUPY? OR OCCUPIE? ? OR INHABIT? OR PRESENT? - OR PRESENCE? OR ACTIV? OR MOTION? OR MOVEMENT? OR MOVING? OR - MOVE? ? OR KEYSTROKE? OR KEY()STROKE? OR (BUTTON? OR MOUSE?)(- 2N)(PRESS? OR CLICK? OR DOUBLECLICK?) OR UNOCCUPAN? OR UNOCCU- PY? OR UNOCCUPIE? ? OR NONOCCUP? OR UNINHABIT? |
| S2 | 2912919 | (NETWORK? OR DEVICE? ? OR APPLIANCE? ? OR APPARATUS?? OR E- LECTRONICS OR COMPUTER? OR PHONE? ? OR CELLPHONE? OR SMARTPHO- NE? OR PDA OR PDAS OR PERSONAL()DIGITAL()ASSISTANT? OR BLACKB- ERR??? OR CONSOLE? ? OR (GAME? ? OR GAMING)(1N)MACHINE? ? OR - TV OR TELEVISION?)(2N)(USE OR USES OR USED OR USING? OR USAGE? OR UTILIZ? OR UTILIS? OR TRAFFIC? OR OPERAT? OR ON OR VIEW- OR VIEWED OR VIEWING?) |
| S3 | 2452459 | S1: S2(5N)(DETERMINE? OR DETECT? OR FIND??? OR FOUND OR LOCA- T? OR IDENTIFY? OR DISCOVER? OR SENS??? OR LEARN??? OR RECOGNIT? OR NOTICE? OR ASCERTAIN? OR DISCERN?) |
| S4 | 9387950 | USER? ? OR PERSON? ? OR PEOPLE? OR INDIVIDUAL? OR EMPLOYEE?? OR WORKER? ? OR COWORKER? ? OR STUDENT? ? OR INHABITANT? OR - RESIDENT? OR OCCUPANT? OR DWELLER? ? OR TENANT? ? OR GUEST? ? OR ENTITY? OR ENTITIE? ? OR VIEWER? ? OR PLAYER? ? OR WHO |
| S5 | 273875 | S4(5N)(PROMPT? OR ASK??? OR INQUIRY? OR ENQUIRY??? OR QUERIE? ? OR QUESTION? OR SUMMON? OR SOLICIT? OR NOTICE? OR NOTIFY? OR MESSAGE? OR MESSAGING? OR POPUP? OR POP()(UP OR UPS) OR CONFIRM? OR VALIDAT? OR VERIFY?) |
| S6 | 10992933 | HVAC OR CLIMATE()CONTROL? OR HEATING(1W)(COOLING? OR AIR()- CONDITIONING? OR VENTILATION?) OR THERMOSTAT? OR TEMPERATURE? OR WARM????? OR COOL????? OR HUMID? |
| S7 | 415111 | S6(3N)(SETPOINT? OR SET()POINT? OR SETTING? ? OR PROGRAM? ? OR PROGRAMMING? OR LEVEL? ? OR CONTROL?) |
| S8 | 26275 | S7(7N)(CHANGE? OR MODIFY? OR ALTER? OR AMEND? OR ADJUST? OR - ADAPT? OR SWITCH? OR OVERRID? OR OVER()RID??? OR SUPERSEDED? OR IGNOR? OR DISREGARD? OR ACCEPT? OR REPLAC?) |
| S9 | 10 | S5(20N)S8 |

| | | |
|-----|------|---------------------------------------|
| S10 | 4 | S3 AND S5 AND S8 |
| S11 | 10 | S9: S10 NOT PY>2008 |
| S12 | 9 | RD S11 (unique items) |
| S13 | 238 | S3(20N) S8 |
| S14 | 50 | S13 AND S4 |
| S15 | 48 | S14 NOT S9: S10 |
| S16 | 42 | S15 NOT PY>2008 |
| S17 | 34 | RD S16 (unique items) |
| S18 | 2865 | S3(15N) S5 |
| S19 | 76 | S18 AND S6 |
| S20 | 75 | S19 NOT (S9: S10 OR S14) |
| S21 | 62 | S20 NOT PY>2008 |
| S22 | 50 | RD S21 (unique items) |
| S23 | 2396 | AU=(STEI NBERG, J? OR STEI NBERG J?) |
| S24 | 0 | S23 AND S3 AND S7 |

File 275: Gale Group Computer DB(TM) 1983-2011/ Jun 28
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File 636: Gale Group Newsletter DB(TM) 1987-2011/ Aug 16
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(c) 2011 Business Wire.
File 613: PR Newswire 1999-2011/ Aug 19
(c) 2011 PR Newswire Association Inc

| Set | Items | Description |
|-----|----------|--|
| S1 | 24070949 | OCCUPAN? OR OCCUPY? OR OCCUPIE? ? OR INHABIT? OR PRESENT? - OR PRESENCE? OR ACTIVE? OR MOTION? OR MOVEMENT? OR MOVING? OR - MOVE? ? OR KEYSTROKE? OR KEY()STROKE? OR (BUTTON? OR MOUSE?)(- 2N)(PRESS? OR CLICK? OR DOUBLECLICK?) OR UNOCCUPAN? OR UNOCCU- PY? OR UNOCCUPIE? ? OR NONOCCUP? OR UNINHABIT? |
| S2 | 5420590 | (NETWORK? OR DEVICE? ? OR APPLIANCE? ? OR APPARATUS?? OR E- LECTRONICS OR COMPUTER? OR PHONE? ? OR CELLPHONE? OR SMARTPHO- NE? OR PDA OR PDAS OR PERSONAL()DIGITAL()ASSISTANT? OR BLACKB- ERR??? OR CONSOLE? ? OR (GAME? ? OR GAMING)(1N)MACHINE? ? OR - TV OR TELEVISION?)(2N)(USE OR USES OR USED OR USING? OR USAGE? OR UTILIZE? OR UTILISE? OR TRAFFIC? OR OPERAT? OR ON OR VIEW- OR VIEWED OR VIEWING?) |
| S3 | 1432271 | S1: S2(5N)(DETERMINE? OR DETECT? OR FIND??? OR FOUND OR LOCA- T? OR IDENTIFY? OR DISCOVER? OR SENS??? OR LEARN??? OR RECOGNI? OR NOTICE? OR ASCERTAIN? OR DISCERN?) |
| S4 | 34044422 | USER? ? OR PERSON? ? OR PEOPLE? OR INDIVIDUAL? OR EMPLOYEE? OR WORKER? ? OR COWORKER? ? OR STUDENT? ? OR INHABITANT? OR - RESIDENT? OR OCCUPANT? OR DWELLER? ? OR TENANT? ? OR GUEST? ? OR ENTITY? OR ENTITIE? ? OR VIEWER? ? OR PLAYER? ? OR WHO |
| S5 | 1885240 | S4(5N)(PROMPT? OR ASK??? OR INQUIRY? OR ENQUIRY? OR QUERY??? OR QUERIE? ? OR QUESTION? OR SUMMON? OR SOLICIT? OR NOTICE? OR NOTIFY? OR MESSAGE? OR MESSAGING? OR POPUP? OR POP()(UP OR UPS) OR CONFIRM? OR VALIDATE? OR VERIFY?) |
| S6 | 2535934 | HVAC OR CLIMATE()CONTROL? OR HEATING(1W)(COOLING? OR AIR()- CONDITIONING? OR VENTILATION?) OR THERMOSTAT? OR TEMPERATURE? OR WARM???? OR COOL???? OR HUMID? |
| S7 | 208886 | S6(3N)(SETPOINT? OR SET()POINT? OR SETTING? ? OR PROGRAM? ? OR PROGRAMMING? OR LEVEL? ? OR CONTROL?) |
| S8 | 16181 | S7(7N)(CHANGE? OR MODIFY? OR ALTER? OR AMEND? OR ADJUST? OR - ADAPT? OR SWITCH? OR OVERRIDE? OR OVER()RID??? OR SUPERSEDE? OR |

| | | IGNOR? OR DI SREGARD? OR ACCEPT? OR REPLAC?) |
|-----|------|--|
| S9 | 29 | S5(20N) S8 |
| S10 | 10 | S3(100N) S5(100N) S8 |
| S11 | 33 | S9: S10 NOT PY>2008 |
| S12 | 25 | RD S11 (uni que i t ems) |
| S13 | 260 | S3(20N) S8 |
| S14 | 110 | S13(50N) S4 |
| S15 | 106 | S14 NOT S9: S10 |
| S16 | 91 | S15 NOT PY>2008 |
| S17 | 59 | RD S16 (uni que i t ems) |
| S18 | 9147 | S3(15N) S5 |
| S19 | 29 | S18(100N) S7 |
| S20 | 25 | S19 NOT (S9: S10 OR S14) |
| S21 | 24 | S20 NOT PY>2008 |
| S22 | 16 | RD S21 (uni que i t ems) |

EAST Search History

EAST Search History (Prior Art)

| Ref # | Hits | Search Query | DBs | Default Operator | Plurals | Time Stamp |
|-------|------|--|--------------------------------|------------------|---------|---------------------|
| S184 | 92 | (US-20090125151-\$ or US-20090099699-\$ or US-20100123560-\$ or US-20100019051-\$ or US-20090284344-\$ or US-20090140838-\$ or US-20080281472-\$ or US-20070146126-\$ or US-20070040672-\$ or US-20070008149-\$ or US-20060267780-\$ or US-20040155781-\$ or US-20100156608-\$ or US-20100138007-\$ or US-20090055403-\$ or US-20060283938-\$ or US-20040178889-\$ or US-20040231003-\$ or US-20100162285-\$ or US-20090293079-\$ or US-20090147772-\$ or US-20090052859-\$ or US-20060045105-\$ or US-20080283621-\$).did. or (US-6912429-\$ or US-6851621-\$ or US-5682949-\$ or US-6145751-\$ or US-H002176-\$ or US-6549130-\$ or US-6542076-\$ or US-6351693-\$ or US-6549816-\$ or US-6671586-\$ or US-6643567-\$ or US-6633823-\$ or US-6628997-\$ or US-6622926-\$ or US-6622925-\$ or US-6622097-\$ or US-6619555-\$ or US-6598056-\$ or US-6595430-\$ or US-6594825-\$ or US-6574537-\$ or US-6536675-\$ or US-6480803-\$ or US-6437692-\$ or US-6400996-\$ or US-6178362-\$).did. or (US-5717609-\$ or US-5572438-\$ or US-4674027-\$ or US-4403644-\$ or US-7354005-\$ or US-7392042-\$ or US-7248170-\$ or US-7027617-\$ or US-6633223-\$ or US-7061393-\$ or US-5977964-\$ or US-7260823-\$ or US-7242988-\$ or US-7483964-\$ or US-6640145-\$ or US-6418424-\$ or US-7706928-\$ or US-7702421-\$ or US-7644869-\$ or US-6260765-\$ or US-5818347-\$ or US-5555927-\$ or US-5544036-\$ or US-5462225-\$ or US-5314004-\$ or US-5270952-\$ or US-5244146-\$).did. or (US-4655279-\$ or US-4341345-\$ or US-4136732-\$ or US-7509402-\$ or US-7587464-\$ or US-7590703-\$ or US-7657636-\$ or US-7455236-\$ or US-7421727-\$ or US-7156316-\$ or US-5261481-\$ or US-7793510-\$ or US-7055759-\$).did. or (WO-2009069998-\$ or US-6196468-\$).did. | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/08/22 14:12 |
| S185 | 2 | S184 and rosen.in. | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/08/22 14:12 |

| | | | | | | |
|------|-----|--|--------------------------------|----|----|---------------------|
| S186 | 1 | S184 and rosen.in. and override | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/08/22 14:17 |
| S187 | 0 | "11926950" | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/08/22 14:18 |
| S188 | 22 | ("20050040250" "20060071087" "20060186214" "20070045431" "5395042" "5396048" "5476221" "5538181" "6843068" "6845918" "6991029").PN. | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/08/22 14:19 |
| S189 | 6 | S188 and override | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/08/22 14:19 |
| S190 | 1 | (11/335182).APP. | USPAT; USOCR | OR | ON | 2011/08/22 14:21 |
| S191 | 0 | (11/394581).APP. | USPAT; USOCR | OR | ON | 2011/08/22 14:26 |
| S192 | 104 | (US-20090125151-\$ or US-20090099699-\$ or US-20100123560-\$ or US-20100019051-\$ or US-20090284344-\$ or US-20090140838-\$ or US-20080281472-\$ or US-20070146126-\$ or US-20070040672-\$ or US-20070008149-\$ or US-20060267780-\$ or US-20040155781-\$ or US-20100156608-\$ or US-20100138007-\$ or US-20090055403-\$ or US-20060283938-\$ or US-20040178889-\$ or US-20040231003-\$ or US-20100162285-\$ or US-20090293079-\$ or US-20090147772-\$ or US-20090052859-\$ or US-20060045105-\$ or US-20080283621-\$ or US-20060186214-\$ or US-20070045431-\$). did. or (US-20060071087-\$ or US-20050040250-\$). did. or (US-6912429-\$ or US-6851621-\$ or US-5682949-\$ or US-6145751-\$ or US-H002176-\$ or US-6549130-\$ or US-6542076-\$ or US-6351693-\$ or US-6549816-\$ or US-6671586-\$ or US-6643567-\$ or US-6633823-\$ or US-6628997-\$ or US-6622926-\$ or US-6622925-\$ or US-6622097-\$ or US-6619555-\$ or US-6598056-\$ or US-6595430-\$ or US-6594825-\$ or US-6574537-\$ or US-6536675-\$ or US-6480803-\$ or US-6437692-\$ or US-6400996-\$ or US-6178362-\$). did. or (US-5717609-\$ or US-5572438-\$ or US-4674027-\$ or US-4403644-\$ or US-7354005-\$ or US-7392042-\$ or US-7248170-\$ or US-7027617-\$ or US-6633223-\$ or US-7061393-\$ or US-5977964-\$ or US-7260823-\$ or US-7242988-\$ or US-7483964-\$ or US-6640145-\$ or US-6418424-\$ or US-7706928-\$ or US-7702421-\$ or US-7644869-\$ or US-6260765-\$ or US-5818347-\$ or US-5555927-\$ or US- | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/08/22 15:55 |

| | | | | | | |
|------|------|--|--------------------------------|----|----|---------------------|
| | | 5544036-\$ or US-5462225-\$ or US-5314004-\$ or US-5270952-\$ or US-5244146-\$).did. or (US-4655279-\$ or US-4341345-\$ or US-4136732-\$ or US-7509402-\$ or US-7587464-\$ or US-7590703-\$ or US-7657636-\$ or US-7455236-\$ or US-7421727-\$ or US-7156316-\$ or US-5261481-\$ or US-7793510-\$ or US-7055759-\$ or US-6845918-\$ or US-5395042-\$ or US-7802618-\$).did. or (WO-2009069998-\$ or US-6196468-\$ or US-20070045431-\$ or US-20060186214-\$ or US-6843068-\$ or US-20040245351-\$ or WO-9520782-\$).did. | | | | |
| S193 | 2884 | "I1" and over\$1ride | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/08/22 15:55 |
| S194 | 33 | S192 and (over\$1ride) | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/08/22 15:55 |
| S195 | 16 | S192 and (over\$1ride same \$2occup\$5) | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/08/22 15:56 |
| S196 | 10 | S192 and (over\$1ride same \$2occup\$5) same (user or operator) | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/08/22 16:00 |
| S197 | 6 | S192 and (over\$1ride same \$2occup\$5) same (user or operator) same (input or prompt\$4 or ask\$3) | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/08/22 16:01 |
| S198 | 121 | ("5544036").URPN. | USPAT | OR | ON | 2011/08/22 16:14 |
| S199 | 2 | S198 and (over\$1ride same \$2occup\$5) same (user or operator) | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/08/22 16:14 |

8/ 29/ 2011 3:18:25 PM

C:\Users\drobertson2\Documents\EAST\Workspaces\12502064 Steinberg energy use monitor tv viewing habits.wsp

| | | | |
|--|----------------------|-------------------------|------------------|
| INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Application No. | 12/502064 | |
| | Filing Date | 07-13-2009 | |
| | First Named Inventor | Steinberg, John Douglas | |
| | Art Unit | 2121 | |
| <i>(Multiple sheets used when necessary)</i> | | Examiner | Robertson, David |
| SHEET 1 OF 1 | | Attorney Docket No. | EFACT.011A |

| U.S. PATENT DOCUMENTS | | | | | |
|-----------------------|----------|---|--------------------------------|--------------------------------|--|
| Examiner Initials | Cite No. | Document Number Number - Kind Code (if known) Example: 1,234,567 B1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear |
| | 1 | 7,356,384 | 04-2008 | Gull, et al. | |
| | 2 | 7,784,704 | 08-31-2010 | Harter | |
| | 3 | 7,848,900 | 12-07-2010 | Steinberg, John Douglas et al. | |
| | 4 | 7,894,943 | 02-22-2011 | Sloup et al. | |
| | 5 | 2009/0240381 | 09-2009 | Lane | |
| | 6 | 2009/0281667 | 11-2009 | Masui, et al. | |
| | 7 | 2010/0019052 | 01-2010 | Yip | |
| | 8 | 2010/0070086 | 03-2010 | Harrod, et al. | |
| | 9 | 2010/0070089 | 03-2010 | Harrod, et al. | |
| | 10 | 2010/0070093 | 03-2010 | Harrod, et al. | |
| | 11 | 2010/0211224 | 08-2010 | Keeling, et al. | |
| | 12 | 2010/0235004 | 09-2010 | Thind | |
| | 13 | 2010/0289643 | 11-2010 | Trundle, et al. | |
| | 14 | 2011/0031323 | 02-2011 | Nold, et al. | |

| FOREIGN PATENT DOCUMENTS | | | | | | |
|--------------------------|----------|--|--------------------------------|-------------------------------|--|----------------|
| Examiner Initials | Cite No. | Foreign Patent Document Country Code-Number-Kind Code Example: JP 1234567 A1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear | T ¹ |

| NON PATENT LITERATURE DOCUMENTS | | | |
|---------------------------------|----------|---|----------------|
| Examiner Initials | Cite No. | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T ¹ |

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| | | | |
|--------------------|-------------------------------|-----------------|------------|
| Examiner Signature | /Dave Robertson/ (08/10/2011) | Date Considered | 08/10/2011 |
|--------------------|-------------------------------|-----------------|------------|

*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

T¹ - Place a check mark in this area when an English language Translation is attached.

| | | |
|--|----------------------|-------------------------|
| INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Application No. | 12/502064 |
| | Filing Date | 07-13-2009 |
| | First Named Inventor | Steinberg, John Douglas |
| | Art Unit | 3744 |
| (Multiple sheets used when necessary) | Examiner | |
| SHEET 1 OF 4 | Attorney Docket No. | JSTEIN.011A |

| U.S. PATENT DOCUMENTS | | | | | |
|-----------------------|----------|---|--------------------------------|-------------------------------|--|
| Examiner Initials | Cite No. | Document Number Number - Kind Code (if known) Example: 1,234,567 B1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear |
| | 1 | 4,403,644 | 09-13-1983 | Hebert, Raymond T. | |
| | 2 | 4,674,027 | 06-16-1987 | Thomas J. Beckey | |
| | 3 | 5,572,438 | 11-05-1996 | Ehlers, et al. | |
| | 4 | 5,717,609 | 02-10-1998 | Packa, et al. | |
| | 5 | 6,145,751 | 11-14-2000 | Ahmed | |
| | 6 | 6,178,362 | 01-23-2001 | Woolard, et al. | |
| | 7 | 6,351,693 | 02-26-2002 | Monie | |
| | 8 | 6,400,996 | 06-04-2002 | Hoffberg, et al. | |
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| Examiner Signature | Date Considered |
|--------------------|-----------------|

***Examiner:** Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

| | | |
|--|----------------------|-------------------------|
| INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Application No. | 12/502064 |
| | Filing Date | 07-13-2009 |
| | First Named Inventor | Steinberg, John Douglas |
| | Art Unit | 3744 |
| (Multiple sheets used when necessary) | Examiner | |
| SHEET 2 OF 4 | Attorney Docket No. | JSTEIN.011A |

| U.S. PATENT DOCUMENTS | | | | | |
|-----------------------|----------|---|--------------------------------|-------------------------------|--|
| Examiner Initials | Cite No. | Document Number Number - Kind Code (if known) Example: 1,234,567 B1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear |
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| Examiner Signature | Date Considered |
|--------------------|-----------------|

***Examiner:** Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

| | | |
|--|----------------------|---------------------------------|
| INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Application No. | 12/502064 |
| | Filing Date | 07-13-2009 |
| | First Named Inventor | Steinberg, John Douglas |
| | Art Unit | 3744 |
| <i>(Multiple sheets used when necessary)</i> | | Examiner |
| SHEET 3 OF 4 | | Attorney Docket No. JSTEIN.011A |

| U.S. PATENT DOCUMENTS | | | | | |
|-----------------------|----------|--|--------------------------------|-------------------------------|--|
| Examiner Initials | Cite No. | Document Number <i>Number - Kind Code (if known)</i> Example: 1,234,567 B1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear |
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| FOREIGN PATENT DOCUMENTS | | | | | | |
|--------------------------|----------|---|--------------------------------|-------------------------------|--|----------------|
| Examiner Initials | Cite No. | Foreign Patent Document <i>Country Code-Number-Kind Code</i> Example: JP 1234567 A1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear | T ¹ |

| NON PATENT LITERATURE DOCUMENTS | | | |
|---------------------------------|----------|---|----------------|
| Examiner Initials | Cite No. | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T ¹ |
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| Examiner Signature | Date Considered |
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| INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Application No. | 12/502064 |
| | Filing Date | 07-13-2009 |
| | First Named Inventor | Steinberg, John Douglas |
| | Art Unit | 3744 |
| (Multiple sheets used when necessary) | Examiner | |
| SHEET 4 OF 4 | Attorney Docket No. | JSTEIN.011A |


| NON PATENT LITERATURE DOCUMENTS | | | |
|---------------------------------|-------------|---|----------------|
| Examiner Initials | Cite No. | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T ¹ |
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| Examiner Signature | /Dave Robertson/ (09/27/2011) | Date Considered | 09/27/2011 |
|--------------------|-------------------------------|-----------------|------------|

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T¹ - Place a check mark in this area when an English language translation is attached. **ALL REFERENCES CONSIDERED EXCEPT WHERE INDICATED OTHERWISE. /DCR/**

| | | |
|---|--|---|
| Index of Claims  | Application/Control No. 12502064 | Applicant(s)/Patent Under Reexamination STEINBERG, JOHN DOUGLAS |
| | Examiner Dave Robertson | Art Unit 2121 |

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| ✓ | Rejected |
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| N | Non-Elected |
| I | Interference |

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| A | Appeal |
| O | Objected |

Claims renumbered in the same order as presented by applicant
 CPA
 T.D.
 R.1.47

| CLAIM | | DATE | | | | | | | |
|-------|----------|------------|------------|------------|--|--|--|--|--|
| Final | Original | 09/28/2010 | 02/26/2011 | 08/29/2011 | | | | | |
| | 1 | ✓ | ✓ | ✓ | | | | | |
| | 2 | ✓ | ✓ | ✓ | | | | | |
| | 3 | ✓ | ✓ | ✓ | | | | | |
| | 4 | ✓ | ✓ | ✓ | | | | | |
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| | 9 | ✓ | ✓ | ✓ | | | | | |
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| | 11 | ✓ | ✓ | ✓ | | | | | |
| | 12 | ✓ | ✓ | ✓ | | | | | |
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| | 22 | ✓ | ✓ | ✓ | | | | | |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : John Douglas Steinberg
App. No. : 12/502,064
Filed : July 13, 2009
For : SYSTEM AND METHOD FOR
USING A NETWORKED
ELECTRONIC DEVICE AS AN
OCCUPANCY SENSOR FOR AN
ENERGY MANAGEMENT SYSTEM
Examiner : David Robertson
Art Unit : 2121
Conf No. : 5514

RESPONSE TO MARCH 3, 2011 OFFICE ACTION**Mail Stop Amendment**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action mailed March 3, 2011, Applicant respectfully submits the following amendments and comments.

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 6 of this paper.

AMENDMENTS TO THE CLAIMS

Please amend Claims 1, 5, 10-12, and 20-22 as indicated below.

1. (Currently Amended) A method for varying temperature setpoints for an HVAC system comprising:

storing at least ~~an~~ a first HVAC temperature setting setpoint associated with a structure that is deemed to be non-occupied and at least a second HVAC temperature setpoint associated a said structure deemed to be occupied;

determining whether one or more networked electronic devices inside said structure are in use, wherein said networked electronic devices comprise a graphic user interface comprising a display, wherein said networked electronic devices receive input from one or more users and wherein use of said networked electronic devices comprises at least one of cursor movement, keystrokes or other user interface actions intended to alter a state of one or more of said networked electronic devices by one or more users;

~~determining whether lack of said use of said networked electronic devices indicates non-occupancy of~~ said HVAC system is set to said first HVAC temperature setpoint indicating that said structure is deemed to be non occupied;

providing electronic notice to one or more of said users of said networked electronic devices ~~of a determination of non-occupancy that said HVAC system is set for a non-occupied structure and offering to change said first HVAC temperature setpoint to a second HVAC temperature setpoint associated with occupancy of said structure;~~ and

keeping said first HVAC temperature setpoint ~~adjusting the temperature setpoint on a thermostatic controller for an HVAC system for said structure to the HVAC temperature associated with a structure that is deemed to be non-occupied based upon user response to said~~ electronic notice.

2. (Previously Presented) The method of Claim 1 in which at least one of said networked electronic devices is a television.

3. (Previously Presented) The method of Claim 1 in which at least one of said networked electronic devices is a personal computer.

4. (Previously Presented) The method of Claim 1 in which at least one of said networked electronic devices is connected to the Internet.

5. (Currently Amended) The method of Claim 1 in which programming being watched or listened to using at least one of said networked electronic devices is used to determine which occupant of said structure is likely to be present, and the second HVAC temperature setpoint for said thermostatic controller is selected based upon the preferences of the occupant determined to be using said at least one networked electronic device.

6. (Previously Presented) The method of Claim 1 in which at least one of said networked electronic devices is a game console.

7. (Previously Presented) The method of Claim 1 in which at least one of said networked electronic devices communicates with a remote server.

8. (Canceled)

9. (Previously Presented) The method of Claim 1 in which said adjusting of said temperature setpoint is initiated by a remote computer.

10. (Currently Amended) The method of Claim 1 in which said first HVAC temperature setpoint is varied automatically.

11. (Currently Amended) The method of Claim 1 in which an occupant is prompted to confirm occupancy prior to the adjusting of said first HVAC temperature setpoint.

12. (Currently Amended) A system for altering the setpoint on a thermostat for space conditioning of a structure comprising:

at least one thermostat having at least one first temperature setpoint ~~setting~~ associated with the ~~presence of one or more occupants in a~~ non-

occupied structure, and at least one a second temperature setting setpoint associated with the existence absence of occupants in said structure;

one or more electronic devices having at least a graphic user interface comprising a display wherein said electronic devices receive input from one or more users and wherein use of said electronic devices comprises at least one of cursor movement, keystrokes or other user interface actions intended to alter a state of one or more of said electronic devices by one or more users, ~~and wherein lack of said use of said electronic devices indicates non-occupancy of said structure~~ wherein activity of one or more networked electronic devices indicates whether said thermostat should be changed from said first temperature setpoint to said second temperature setpoint;

wherein said electronic devices and said thermostat are connected to a network;

an application comprising one or more computer processors in communication with said network, wherein said application determines whether said one or more electronic devices are in use and whether said thermostat is set to said first temperature setpoint that indicates said structure is not occupied, wherein said application provides electronic notice to one or more of said users of said electronic devices that said thermostat is set for a non-occupied structure and whether to keep said first temperature setpoint or change to said second temperature setpoint of a determination of non-occupancy; and

wherein ~~said setpoint on said thermostat is kept at adjusted from said first temperature setpoint setting associated with the presence of one or more occupants in said structure to said temperature setting associated with the absence of occupants in said structure based upon user response to said electronic notice.~~

13. (Previously Presented) The system of Claim 12 in which at least one of said electronic devices is a television.

14. (Previously Presented) The system of Claim 12 in which at least one of said electronic devices is a personal computer.

15. (Previously Presented) The system of Claim 12 in which at least one of said electronic devices is connected to the Internet.

16. (Previously Presented) The system of Claim 12 in which the programming being watched or listened to using said electronic devices is used to determine which occupant of said structure is likely to be using at least one of said electronic devices, and the setpoint for said thermostatic controller is selected based upon the preferences of the occupant determined to be using said at least one electronic device.

17. (Previously Presented) The system of Claim 12 in which at least one of said electronic devices is a game console.

18. (Previously Presented) The system of Claim 12 in which at least one of said electronic devices communicates with a remote server.

19. (Canceled)

20. (Currently Amended) The system of Claim 12 in which variation of said first temperature setpoints-setpoint is initiated by a remote computer.

21. (Currently Amended) The system of Claim 12 in which said first temperature setpoint is varied automatically.

22. (Currently Amended) The system of Claim 12 in which an occupant is prompted to confirm occupancy prior to adjustment of said first temperature setpoint.

REMARKS

The March 3, 2011 Office Action was based upon pending Claims 1-7, 9-18 and 20-22. This Amendment amends Claims 1, 5, 10-12, and 20-22. Thus, after entry of this Amendment, Claims 1-7, 9-18 and 20-22 are pending and presented for further consideration.

ISSUES RAISED IN THE OFFICE ACTION

In the Office Action, Claims 1-7, 9-18 and 20-22 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

In response, Applicant has amended the pending claims to more clearly focus on aspects of the embodiments shown in Figure 7 and described in paragraph 0039. Accordingly, Applicant submits that the pending claims have been amended to overcome the indefinite issues raised in the Office Action.

Claim 1

With respect to novelty and non-obviousness, the cited references do not appear to teach providing electronic notice to one or more users of the networked electronic devices that the HVAC system is set for a non-occupied structure. This notice also offers to change a first HVAC temperature setpoint to a second HVAC temperature setpoint associated with occupancy of said structure.

Futhermore, the cited references do not appear to teach the concept of keeping the first HVAC temperature setpoint based upon user response to the electronic notice.

Thus, Applicant respectfully requests allowance of Claim 1.

Claims 2-7 and 9-11

Claims 2-7 and 9-11 depend from Claim 1 and are believed to be patentable for the same reasons articulated above with respect to Claim 1, and because of the additional features recited therein.

Claim 12

Independent Claim 12 is of different scope than the other independent claims and Applicant requests the Examiner to separately evaluate the patentability of Claim 12 in light of the arguments set forth below.

In particular, Claim 12 is directed to a system for altering the setpoint on a thermostat for space conditioning of a structure. Claim 12 comprises at least one thermostat having at least a first temperature setpoint associated with a non-occupied structure, and at least a second temperature setpoint associated with the existence of occupants in the structure.

In addition, Claim 12 comprises one or more electronic devices having at least a graphic user interface comprising a display wherein the electronic devices receive input from one or more users and wherein use of the electronic devices comprises at least one of cursor movement, keystrokes or other user interface actions intended to alter a state of one or more of the electronic devices by one or more users wherein activity of one or more networked electronic devices indicates whether the thermostat should be changed from the first temperature setpoint to the second temperature setpoint. The electronic devices and the thermostat are also connected to a network

Still further, Claim 12 comprises an application that in turn, comprises one or more computer processors in communication with the network. The application determines whether one or more of the electronic devices are in use and whether the thermostat is set to the first temperature setpoint that indicates the structure is not occupied. The application also provides electronic notice to one or more of the users of the electronic devices that the thermostat is set for a non-occupied structure and whether to keep the first temperature setpoint or change to the second temperature setpoint.

The thermostat is kept at the first temperature setpoint based upon user response to the electronic notice.

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Filing Date: July 13, 2009

Because the cited references fail to teach the combination of these concepts, Applicant respectfully submits that Claim 12 is patentably distinct from the cited references and Applicant respectfully requests allowance of Claim 12.

Claims 13-18 and 20-22

Claims 13-18 and 20-22 depend from Claim 12 and are believed to be patentable for the same reasons articulated above with respect to Claim 12, and because of the additional features recited therein.

OTHER APPLICATIONS OF ASSIGNEE

Applicant wishes to draw the Examiner's attention to the following applications of the present application's assignee:

| Inventors | Appl. No. | Filing Date | Attorney Docket No. | Title |
|------------------|---|--------------------|----------------------------|---|
| Steinberg et al. | 60/963,183 Now Expired | 08/03/07 | EFACT.003PR | System And Method For Using A Network Of Thermostats As Tool To Verify Peak Demand Reduction |
| Steinberg et al. | 60/944,011 Now Expired | 09/17/07 | EFACT.005PR | System And Method For Calculating The Thermal Mass Of A Building |
| Steinberg et al. | 12/183,990 Now Pat. 7,908,117 | 07/31/08 | EFACT.003A | System And Method For Using A Network Of Thermostats As Tool To Verify Peak Demand Reduction |
| Steinberg et al. | 12/183,949 Now Pat. 7,908,116 | 07/31/08 | EFACT.004A | System And Method For Using A Network Of Thermostats As Tool To Verify Peak Demand Reduction |
| Steinberg et al. | 12/211,733 Now Pat. 7,848,900 | 09/16/08 | EFACT.005A | System And Method For Calculating The Thermal Mass Of A Building |
| Steinberg et al. | 12/211,690 Published 2010/0070234 | 09/16/08 | EFACT.006A | System And Method For Evaluating Changes In The Efficiency Of An HVAC System |
| Steinberg | 61/215,816 Now Expired | 05/11/09 | EFACT.008PR | System, Method And Apparatus For Dynamically Variable Compressor Delay In Thermostat To Reduce Energy Consumption |
| Steinberg et al. | 61/215,657 Now Expired | 05/08/09 | EFACT.009PR | System, Method And Apparatus For Just-In-Time Conditioning Using A Thermostat |

Application No.: 12/502,064
Filing Date: July 13, 2009

| Inventors | Appl. No. | Filing Date | Attorney Docket No. | Title |
|------------------|---|--------------------|----------------------------|--|
| Steinberg et al. | 61/215,999 Now Expired | 05/12/09 | EFACT.007PR | System, Method And Apparatus For Identifying Manual Inputs To And Adaptive Programming Of A Thermostat |
| Cheung et al. | 12/498,142 Published 2010/0262299 | 07/06/09 | EFACT.010A | System And Method For Using Ramped Setpoint Temperature Variation With Networked Thermostats To Improve Efficiency |
| Steinberg | 12/502,064 Published 2010/0280667 | 07/13/09 | EFACT.011A | System And Method For Using A Networked Electronic Device As An Occupancy Sensor For An Energy Management System |
| Steinberg et al. | 12/773,690 Published 2010/0318227 | 05/04/10 | EFACT.009A | System, Method And Apparatus For Just-In-Time Conditioning Using A Thermostat |
| Steinberg | 12/774,580 Published 2010/0282857 | 05/05/10 | EFACT.008A | System, Method And Apparatus For Dynamically Variable Compressor Delay In Thermostat To Reduce Energy Consumption |
| Steinberg et al. | 12/778,052 Published 2010/0308119 | 05/11/10 | EFACT.007A | System, Method And Apparatus For Identifying Manual Inputs To And Adaptive Programming Of A Thermostat |
| Steinberg | 12/788,246 Pending | 05/26/10 | EFACT.012A | System And Method For Using A Mobile Electronic Device To Optimize An Energy Management System |
| Steinberg | 12/860,821 Pending | 08/20/10 | EFACT.013A | System And Method For Optimizing Use Of Plug-In Air Conditioners And Portable Heaters |
| Steinberg et al. | 12/959,225 Pending | 12/02/10 | EFACT.005C1 | System And Method For Calculating The Thermal Mass Of A Building |
| Steinberg et al. | 13/037,162 Pending | 02/28/11 | EFACT.004C1 | System And Method For Using A Network Of Thermostats As Tool To Verify Peak Demand Reduction |

Applicant notes that cited references, office actions, responses and notices of allowance currently exist or will exist for the above-referenced matters. Applicant also understands that the Examiner has access to sophisticated online Patent Office computing systems that provide ready access to the full file histories of these matters

Application No.: 12/502,064
Filing Date: July 13, 2009

including, for example, specifications, drawings, pending claims, cited art, office actions, responses, declarations, and notices of allowance.

Rather than submit copies these file histories, Applicant respectfully requests that the Examiner continue to review these file histories online for past, current, and future information about these matters.

Also, if the Examiner cannot readily access these file histories, the Applicant would be pleased to provide any portion of any of the file histories at any time upon specific Examiner request.

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Submitted concurrently herewith is a Supplemental Information Disclosure Statement citing 14 new references. Applicant respectfully requests the Examiner to consider the pending claims in connection with these references in order to make the references of record.

NO DISCLAIMERS OR DISAVOWALS

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application.

Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution.

Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

Application No.: 12/502,064
Filing Date: July 13, 2009

CONCLUSION

Applicant has endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. In light of the above remarks, reconsideration and withdrawal of the outstanding rejections is specifically requested.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 8-2-2011

By: John R. King
John R. King
Registration No. 34,362
Attorney of Record
Customer No. 20,995
(949) 760-0404

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INFORMATION DISCLOSURE STATEMENT

Applicant : John Douglas Steinberg
App. No : 12/502,064
Filed : July 13, 2009
For : SYSTEM AND METHOD FOR USING A
NETWORKED ELECTRONIC DEVICE AS AN
OCCUPANCY SENSOR FOR AN ENERGY
MANAGEMENT SYSTEM
Examiner : Robertson, David
Art Unit : 2121
Conf No. : 5514

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Enclosed for filing in the above-identified application is a PTO/SB/08 Equivalent listing fourteen (14) references.

This Information Disclosure Statement is being filed before the mailing date of a final action and before the mailing of a Notice of Allowance. This Statement is accompanied by the fees set forth in 37 C.F.R. § 1.17(p). The Commissioner is hereby authorized to charge any additional fees which may be required or to credit any overpayment to Account No. 11-1410.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 8-2-2011

By: John R. King
John R. King
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Attorney of Record
Customer No. 20,995
(949) 760-0404

| | | |
|--|----------------------|-------------------------|
| INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Application No. | 12/502064 |
| | Filing Date | 07-13-2009 |
| | First Named Inventor | Steinberg, John Douglas |
| | Art Unit | 2121 |
| <i>(Multiple sheets used when necessary)</i> | Examiner | Robertson, David |
| SHEET 1 OF 1 | Attorney Docket No. | EFACT.011A |

| U.S. PATENT DOCUMENTS | | | | | |
|-----------------------|----------|---|--------------------------------|--------------------------------|--|
| Examiner Initials | Cite No. | Document Number Number - Kind Code (if known) Example: 1,234,567 B1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear |
| | 1 | 7,356,384 | 04-2008 | Gull, et al. | |
| | 2 | 7,784,704 | 08-31-2010 | Harter | |
| | 3 | 7,848,900 | 12-07-2010 | Steinberg, John Douglas et al. | |
| | 4 | 7,894,943 | 02-22-2011 | Sloup et al. | |
| | 5 | 2009/0240381 | 09-2009 | Lane | |
| | 6 | 2009/0281667 | 11-2009 | Masui, et al. | |
| | 7 | 2010/0019052 | 01-2010 | Yip | |
| | 8 | 2010/0070086 | 03-2010 | Harrod, et al. | |
| | 9 | 2010/0070089 | 03-2010 | Harrod, et al. | |
| | 10 | 2010/0070093 | 03-2010 | Harrod, et al. | |
| | 11 | 2010/0211224 | 08-2010 | Keeling, et al. | |
| | 12 | 2010/0235004 | 09-2010 | Thind | |
| | 13 | 2010/0289643 | 11-2010 | Trundle, et al. | |
| | 14 | 2011/0031323 | 02-2011 | Nold, et al. | |

| FOREIGN PATENT DOCUMENTS | | | | | | |
|--------------------------|----------|--|--------------------------------|-------------------------------|--|----------------|
| Examiner Initials | Cite No. | Foreign Patent Document Country Code-Number-Kind Code Example: JP 1234567 A1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear | T ¹ |

| NON PATENT LITERATURE DOCUMENTS | | | |
|---------------------------------|----------|---|----------------|
| Examiner Initials | Cite No. | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T ¹ |

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| | |
|---|-----------------|
| Examiner Signature | Date Considered |
| *Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. | |

T¹ - Place a check mark in this area when an English language Translation is attached.

Electronic Patent Application Fee Transmittal

| | |
|---|--|
| Application Number: | 12502064 |
| Filing Date: | 13-Jul-2009 |
| Title of Invention: | SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM |
| First Named Inventor/Applicant Name: | John Douglas Steinberg |
| Filer: | John R. King/Amy Durrant |
| Attorney Docket Number: | EFACT.011A |

Filed as Small Entity

Utility under 35 USC 111(a) Filing Fees

| Description | Fee Code | Quantity | Amount | Sub-Total in USD(\$) |
|--|----------|----------|-----------------------|----------------------|
| Basic Filing: | | | | |
| Pages: | | | | |
| Claims: | | | | |
| Miscellaneous-Filing: | | | | |
| Petition: | | | | |
| Patent-Appeals-and-Interference: | | | | |
| Post-Allowance-and-Post-Issuance: | | | | |
| Extension-of-Time: | | | | |
| Extension - 2 months with \$0 paid | 2252 | 1 | ecobee, IPR2021-01052 | 245 |

| Description | Fee Code | Quantity | Amount | Sub-Total in USD(\$) |
|---|----------|----------|--------|----------------------|
| Miscellaneous: | | | | |
| Submission- Information Disclosure Stmt | 1806 | 1 | 180 | 180 |
| Total in USD (\$) | | | | 425 |

Electronic Acknowledgement Receipt

| | |
|---|--|
| EFS ID: | 10652334 |
| Application Number: | 12502064 |
| International Application Number: | |
| Confirmation Number: | 5514 |
| Title of Invention: | SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM |
| First Named Inventor/Applicant Name: | John Douglas Steinberg |
| Customer Number: | 20995 |
| Filer: | John R. King/ThuyQuyen Nguyen |
| Filer Authorized By: | John R. King |
| Attorney Docket Number: | EFACT.011A |
| Receipt Date: | 02-AUG-2011 |
| Filing Date: | 13-JUL-2009 |
| Time Stamp: | 18:32:54 |
| Application Type: | Utility under 35 USC 111(a) |

Payment information:

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|--|-------------------------------|
| Submitted with Payment | yes |
| Payment Type | Credit Card |
| Payment was successfully received in RAM | \$425 |
| RAM confirmation Number | 5646 |
| Deposit Account | 111410 |
| Authorized User | KNOBBE MARTENS OLSON AND BEAR |

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

Charge any Additional Fees required under 37 C.F.R. Section 1.16 (National application filing, search, and examination fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.17 (Patent application and reexamination processing fees)

ecobee, IPR2021-01052

| File Listing: | | | | | |
|--|-----------------------------|---|--|-------------------------|-------------------------|
| Document Number | Document Description | File Name | File Size(Bytes)/ Message Digest | Multi Part /.zip | Pages (if appl.) |
| 1 | | EFACT-011A_response.pdf | 479270 a0a9f87712eff940d619a85f2f8b1e1acfb19f47 | yes | 11 |
| Multipart Description/PDF files in .zip description | | | | | |
| | | Document Description | Start | End | |
| | | Amendment/Req. Reconsideration-After Non-Final Reject | 1 | 1 | |
| | | Claims | 2 | 5 | |
| | | Applicant Arguments/Remarks Made in an Amendment | 6 | 11 | |
| Warnings: | | | | | |
| Information: | | | | | |
| 2 | | EFACT-011A_ids.pdf | 88752 f07a81f23f3d6a2d90b2d32d71df55d167af061a | yes | 2 |
| Multipart Description/PDF files in .zip description | | | | | |
| | | Document Description | Start | End | |
| | | Transmittal Letter | 1 | 1 | |
| | | Information Disclosure Statement (IDS) Form (SB08) | 2 | 2 | |
| Warnings: | | | | | |
| Information: | | | | | |
| 3 | Fee Worksheet (SB06) | fee-info.pdf | 32554 a0ade85d4577cb1651b7bd2f138ec17aad0345e6 | no | 2 |
| Warnings: | | | | | |
| Information: | | | | | |
| Total Files Size (in bytes): | | | 600576 | | |

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

| | | | |
|---|---|----------------------------------|---------------------------------------|
| PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875 | Application or Docket Number 12/502,064 | Filing Date 07/13/2009 | <input type="checkbox"/> To be Mailed |
|---|---|----------------------------------|---------------------------------------|

| APPLICATION AS FILED – PART I | | | OTHER THAN SMALL ENTITY | | | |
|---|---|--------------|--|----------|-----------|----------|
| | (Column 1) | (Column 2) | SMALL ENTITY <input checked="" type="checkbox"/> | OR | | |
| FOR | NUMBER FILED | NUMBER EXTRA | RATE (\$) | FEE (\$) | RATE (\$) | FEE (\$) |
| <input type="checkbox"/> BASIC FEE <small>(37 CFR 1.16(a), (b), or (c))</small> | N/A | N/A | N/A | | N/A | |
| <input type="checkbox"/> SEARCH FEE <small>(37 CFR 1.16(k), (j), or (m))</small> | N/A | N/A | N/A | | N/A | |
| <input type="checkbox"/> EXAMINATION FEE <small>(37 CFR 1.16(o), (p), or (q))</small> | N/A | N/A | N/A | | N/A | |
| TOTAL CLAIMS <small>(37 CFR 1.16(j))</small> | minus 20 = | * | X \$ = | OR | X \$ = | |
| INDEPENDENT CLAIMS <small>(37 CFR 1.16(h))</small> | minus 3 = | * | X \$ = | | X \$ = | |
| <input type="checkbox"/> APPLICATION SIZE FEE <small>(37 CFR 1.16(s))</small> | If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s). | | | | | |
| <input type="checkbox"/> MULTIPLE DEPENDENT CLAIM PRESENT <small>(37 CFR 1.16(j))</small> | | | | | | |
| * If the difference in column 1 is less than zero, enter "0" in column 2. | | | TOTAL | | TOTAL | |

| APPLICATION AS AMENDED – PART II | | | | | OTHER THAN SMALL ENTITY | | | |
|----------------------------------|---|----------------------------------|------------------------------------|---------------|-------------------------|---------------------|-----------|---------------------|
| | (Column 1) | (Column 2) | (Column 3) | | SMALL ENTITY | OR | | |
| AMENDMENT | 08/02/2011 | CLAIMS REMAINING AFTER AMENDMENT | HIGHEST NUMBER PREVIOUSLY PAID FOR | PRESENT EXTRA | RATE (\$) | ADDITIONAL FEE (\$) | RATE (\$) | ADDITIONAL FEE (\$) |
| | Total <small>(37 CFR 1.16(i))</small> | * 20 | Minus ** 22 | = 0 | X \$26 = | 0 | OR | X \$ = |
| | Independent <small>(37 CFR 1.16(h))</small> | * 2 | Minus ***3 | = 0 | X \$110 = | 0 | OR | X \$ = |
| | <input type="checkbox"/> Application Size Fee <small>(37 CFR 1.16(s))</small> | | | | | | OR | |
| | <input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM <small>(37 CFR 1.16(j))</small> | | | | | | OR | |
| | | | | | TOTAL ADD'L FEE | 0 | OR | TOTAL ADD'L FEE |

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|-----------|---|----------------------------------|------------------------------------|---------------|-----------------|---------------------|-----------|---------------------|
| | (Column 1) | (Column 2) | (Column 3) | | SMALL ENTITY | OR | | |
| AMENDMENT | | CLAIMS REMAINING AFTER AMENDMENT | HIGHEST NUMBER PREVIOUSLY PAID FOR | PRESENT EXTRA | RATE (\$) | ADDITIONAL FEE (\$) | RATE (\$) | ADDITIONAL FEE (\$) |
| | Total <small>(37 CFR 1.16(i))</small> | * | Minus ** | = | X \$ = | | OR | X \$ = |
| | Independent <small>(37 CFR 1.16(h))</small> | * | Minus *** | = | X \$ = | | OR | X \$ = |
| | <input type="checkbox"/> Application Size Fee <small>(37 CFR 1.16(s))</small> | | | | | | OR | |
| | <input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM <small>(37 CFR 1.16(j))</small> | | | | | | OR | |
| | | | | | TOTAL ADD'L FEE | | OR | TOTAL ADD'L FEE |

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
 ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".
 *** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".
 The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

Legal Instrument Examiner:
 /REGINA D. BALTIMORE/

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
12/502,064 07/13/2009 John Douglas Steinberg EFACT.011A 5514

20995 7590 03/03/2011
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER

ROBERTSON, DAVID

Table with 2 columns: ART UNIT, PAPER NUMBER

2121

Table with 2 columns: NOTIFICATION DATE, DELIVERY MODE

03/03/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
efiling@kmob.com
eOAPilot@kmob.com

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 12/502,064 | Applicant(s) STEINBERG, JOHN DOUGLAS | |
| | Examiner Dave Robertson | Art Unit 2121 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 February 2011.
- 2a) This action is **FINAL**.
- 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7,9-18 and 20-22 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-7,9-18 and 20-22 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 - 1. Certified copies of the priority documents have been received.
 - 2. Certified copies of the priority documents have been received in Application No. _____.
 - 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date 2/7/2011.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

1. This is a Non-final office action in response to Applicant's reply of 2/7/2011.
Claims 1-7, 9-18, and 20-22 are pending.

Response to Amendment

2. Applicant amends claims to further recite aspects of the invention regarding detection and actions taken upon determination of *non-occupancy* from user activity on a networked electronic device. These amendments raise questions as to indefiniteness under 35 U.S.C. 112, 2nd paragraph, however, a scheduled interview for Feb. 23, 2011, could not be conducted, and therefore remained unresolved as of the time for statutory response to the amendment filed 2/7/2011 in this special status application. As a courtesy to Applicant, the office action is made non-final. Examiner notes an indication of allowability of claims is per an interpretation taken for examination, however, amendment or clarification on the record will be required for final allowance given the issues raised by these amendments.

Response to Arguments

3. Applicant's arguments filed 2/7/2011 regarding amending claims filed 2/7/2011 are persuasive as to Williams et al. under 35 U.S.C. 102.

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Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 1-7, 9-18, and 20-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear how the claimed method as recited achieves the desired outcome of *adjusting the temperature setpoint....based upon user response to said notice*. Claim 1 as presently amended recites:

A method for varying temperature setpoints for an HVAC system comprising:

- storing at least an HVAC temperature setting associated with a structure that is deemed to be non-occupied;
- determining whether one or more networked electronic devices inside said structure are in use, wherein said networked electronic devices comprise a graphic user interface comprising a display, wherein said networked electronic devices receive input from one or more users and wherein use of said networked electronic devices comprises at least one of cursor movement, keystrokes or other user interface actions intended to alter a state of one or more of said networked electronic devices by one or more users;
- determining whether lack of said use of said networked electronic devices indicates non-occupancy of said structure;
- providing electronic notice to one or more of said users of said networked electronic devices of a determination of non-occupancy; and
- adjusting the temperature setpoint on a thermostatic controller for an HVAC system for said structure to the HVAC temperature associated with a structure that is deemed to be non-occupied based upon user response to said notice.

An interpretation of the method of claim 1 as recited in whole, and specifically to the limitation of *providing electronic notice to the one or more users of said networked electronic devices*, of which *devices* are recited in the antecedent as *inside said structure*, encompasses a step of providing electronic notice of non-occupancy to users of electronic devices residing within a structure determined, by lack of use, to be within a non-occupied structure. Claim 1 further recites *adjusting the temperature setpoint on a thermostatic controller for an HVAC system for said structure to the HVAC temperature associated with a structure that is deemed to be non-occupied based upon user response to said notice*. It is therefore unclear how an electronic notification sent to an electronic device in an unoccupied structure can result in a response by a user, and therefore, indefinite as to what response the adjusting step is based. It is further unclear how a user could indicate a response (presumably using the electronic device to which the notice is sent) and not be deemed occupying the structure as a result of the use; and still further how, in the case of a plurality of users (said one or more users) of the one or more networked electronic devices, an electronic notice could be sent to the user of a corresponding device (if such user could in fact both occupy and not occupy the structure in which a particular electronic device resides) without identification of the particular user and networked device.

Claims are interpreted in light of the specification. Looking to the specification as originally filed (see pages 10-12, ¶[0039-0041]) provides no further clue as to how the method would operate to receive a response from a user to a notification to the networked electronic device when the structure in which both user and device reside

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are *unoccupied*. There is no apparent disclosure of an alternative electronic device for receiving the electronic notice or any disclosed acts or means of directing the notification to an alternative device that is *not* in the unoccupied structure (see e.g. Figure 2 and related description). Rather, looking to the detailed description and the flowchart in Figure 7, there appears to *require* a response to the “requesting action” (the electronic notification) to perform the *adjusting*... step of the method.

Claim 12 recites a system implementing the method of claim 1. Claims 2-7, 9-11, 13-18, and 20-22 depend from claims 1 or 12 and are similarly deficient. Claims 5 and 12 however, by identification of the user by usage pattern, are reasonably clear on the point of which networked electronic device to send the notice because the user of the one or more users may be identified.

For the purposes of examination, the interpretation taken will be as claimed and disclosed, that of *adjusting the temperature setpoint...based upon user response to said notice and requiring a user response to the notification before adjusting the temperature setpoint of the unoccupied structure*. The present disclosure appears to support the claim as recited and interpreted, however, the disclosure does not appear to disclose an action taken in the absence of a user response, and therefore how an adjustment can be made if the user no longer occupies the structure housing the networked device to which the electronic notification of non-occupancy is provided.

Applicant is advised however that this interpretation taken for examination on the merits does not waive the written description requirement that claim amendments must be fully supported and enabled by the original disclosure.

Allowable Subject Matter

6. Notwithstanding the above Examiner comments under *Response to Amendments*, claims 1-7, 9-18, and 20-22 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action, pending final search and consideration after amendments and/or arguments curing of the points of indefiniteness raised above. The reasons for indicating allowable subject matter would be as follows:

The closest prior art **Podgorny et al. (US 2008/0281472)** teaches a method and system substantially as recited in claims 1 and 12, expressly including a graphical user interface (the “Personalization Interface GUI”) capable of receiving notifications (from the “Notification Agent”) for displaying and setting current environmental settings and preferences (see Table 3, page 28 “User’s Interface”), user setting of environmental preferences (Table 3, page 27 “Environmental Model”), and setting an HVAC temperature associated with a structure that is deemed to be non-occupied (see ¶[0201]).

However, Podgorny et al. does not expressly teach ***adjusting the temperature setpoint...to the HVAC temperature associated with a structure that is deemed to be non-occupied based upon user response to said notice [of determination of non-occupancy]***. That is, Podgorny et al. does not teach, as claimed and disclosed by the present invention (as explained in section 35 U.S.C. 112 above) *requiring* a user response to adjust the HVAC temperature associated with a structure deemed to be

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non-occupied upon electronic notification of non-occupancy to the user of the networked electronic device residing in the unoccupied structure.

While Podgorny et al. teaches a Personalized Web UI (user interface) and a Presence Detector capable of prompting a user in response to a detection of non-occupancy, Podgorny et al., alone or in view of the prior art of record, does not teach or fairly suggest adjusting the temperature setpoint within a structure that is deemed to be non-occupied based upon user response to said notice of non-occupancy. Contrary to common sense, it would not be obvious to one of ordinary skill in art to require a user of a networked device residing in a structure deemed to be unoccupied, to respond to a notification of non-occupancy in order to set an HVAC temperature associated with non-occupancy of the structure. Rather, one of ordinary skill in the art would assume that a determination of non-occupancy implies that the user is not present to respond to a notification, and therefore (as in Podgorny et al. ¶[0201]) simply “turn down the temperature” without requiring a user response. To require a user response to “turn down the temperature” when the structure is deemed unoccupied would defeat the purpose of the “Smart Building System” or any such system that saved energy by reducing heating when buildings or zones of buildings are deemed unoccupied.

Conclusion

7. The prior art made of record and listed on the attached PTO Form 892 but not relied upon is considered pertinent to applicant's disclosure.

Wacker et al. (US 7,055,759) teaches user-controlled networked-device enabled setting and control of environmental settings including temperature settings for occupied and unoccupied buildings.

Examiner believes prosecution would be advanced by Interview following receipt of the office action above and review of the cited art of record and comments above.

The Examiner may be reached at the telephone number indicated below.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Robertson whose telephone number is (571)272-8220. The examiner can normally be reached on Weekdays 8:15 am to 4:15 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on (571) 272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dave Robertson/
Examiner, Art Unit 2121

| | | | |
|-----------------------------------|---------------------------------------|--|-------------|
| Notice of References Cited | Application/Control No. 12/502,064 | Applicant(s)/Patent Under Reexamination STEINBERG, JOHN DOUGLAS | |
| | Examiner Dave Robertson | Art Unit 2121 | Page 1 of 1 |

U.S. PATENT DOCUMENTS

| * | Document Number Country Code-Number-Kind Code | Date MM-YYYY | Name | Classification |
|---|--|-----------------|---------------|----------------|
| * | A US-7,055,759 B2 | 06-2006 | Wacker et al. | 236/51 |
| | B US- | | | |
| | C US- | | | |
| | D US- | | | |
| | E US- | | | |
| | F US- | | | |
| | G US- | | | |
| | H US- | | | |
| | I US- | | | |
| | J US- | | | |
| | K US- | | | |
| | L US- | | | |
| | M US- | | | |

FOREIGN PATENT DOCUMENTS

| * | Document Number Country Code-Number-Kind Code | Date MM-YYYY | Country | Name | Classification |
|---|--|-----------------|---------|------|----------------|
| | N | | | | |
| | O | | | | |
| | P | | | | |
| | Q | | | | |
| | R | | | | |
| | S | | | | |
| | T | | | | |

NON-PATENT DOCUMENTS

| * | Document Number Country Code-Number-Kind Code | Date MM-YYYY | Country | Name | Classification |
|---|---|-----------------|---------|------|----------------|
| | Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages) | | | | |
| | U | | | | |
| | V | | | | |
| | W | | | | |
| | X | | | | |

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

| | | |
|---|--|---|
| Search Notes *1250206 4* | Application/Control No. 12502064 | Applicant(s)/Patent Under Reexamination STEINBERG, JOHN DOUGLAS |
| | Examiner Dave Robertson | Art Unit 2121 |

| SEARCHED | | | |
|----------|--------------------|-----------|----------|
| Class | Subclass | Date | Examiner |
| 700 | 276 | 9/28/2010 | dcr |
| 62 | 176.6 | 2/26/2011 | dcr |
| 236 | 46R | 2/26/2011 | dcr |
| 700 | 276, 278, 295, 296 | 2/26/2011 | dcr |

| SEARCH NOTES | | |
|--|-----------|----------|
| Search Notes | Date | Examiner |
| EAST (USPAT, PgPUB, Derwent - see complete search history in application file) | 9/29/2010 | dcr |
| "236"/\$ "700"/\$ "340"/\$ (text-limited and cross-classification search - see search history) | 9/28/2010 | dcr |
| EAST (updated) | 2/26/2011 | dcr |

| INTERFERENCE SEARCH | | | |
|---------------------|----------|------|----------|
| Class | Subclass | Date | Examiner |
| | | | |

/Dave Robertson/
Examiner.Art Unit 2121

EAST Search History

EAST Search History (Prior Art)

| Ref # | Hits | Search Query | DBs | Default Operator | Plurals | Time Stamp |
|-------|------|--|--------------------------|------------------|---------|------------------|
| S71 | 14 | ("20090099699" "20090125151" "4136732" "4341345" "4655279" "5244146" "5270952" "5314004" "5462225" "5544036" "5555927" "5818347" "6260765" "7644869").PN. | US-PGPUB; USPAT | ADJ | ON | 2011/02/19 14:25 |
| S116 | 12 | ("6993417").URPN. | USPAT | ADJ | ON | 2011/02/19 14:30 |
| S115 | 2 | "6993417".pn. | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/19 14:30 |
| S114 | 1 | (temperature or thermostat or HVAC! or heating or cooling) with (control\$4 or setting or set \$1point) and S113 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/19 14:30 |
| S113 | 2 | (US-20090052859-\$).did. or (US-5977964-\$).did. | US-PGPUB; USPAT | ADJ | ON | 2011/02/19 14:30 |
| S112 | 9 | (temperature or thermostat or HVAC! or heating or cooling) with (control\$4 or setting or set \$1point) and S110 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/19 14:30 |
| S111 | 13 | (temperature or thermostat or environment\$2 or HVAC! or heating or cooling) with (control \$4 or setting or set\$1point) and S110 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/19 14:30 |
| S110 | 227 | ((television or TV! or video) (channel or media or program \$4 or content)) ((unoccup\$3 or occupied or occupancy or presence) (detect\$ or determin \$ or recogniz\$)) ((who! or person or user or individual or viewer or occupant or identity) (identi\$6 or recogni\$7 or determin\$ or detect\$))) and S109 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/19 14:30 |
| S109 | 227 | ("5977964").URPN. | USPAT | ADJ | ON | 2011/02/19 14:30 |
| S108 | 1 | (temperature or thermostat or environment\$2 or HVAC! or heating or cooling) with (control \$4 or setting or set\$1point) and S107 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/19 14:30 |

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|------|------|---|--------------------------------|-----|----|---------------------|
| S107 | 2 | ((television or TV! or video) (channel or media or program \$4 or content)) ((unoccup\$3 or occupied or occupancy or presence) (detect\$ or determin \$ or recogniz\$)) (((who! or person or user or individual or viewer or occupant or identity) (identi\$6 or recogni\$7 or determin\$ or detect\$)))) and S106 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/19 14:30 |
| S106 | 2 | "5977964".pn. | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/19 14:30 |
| S105 | 105 | (temperature or thermostat or environment\$2 or HVAC! or heating or cooling) with (control \$4 or setting or set\$1point) and S104 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/19 14:30 |
| S104 | 675 | ((television or TV! or video) with (channel or media or program\$4 or content)) same ((unoccup\$3 or occupied or occupancy or presence) with (detect\$ or determin\$ or recogniz\$)) same (((who! or person or user or individual or viewer or occupant or identity) with (identi\$6 or recogni\$7 or determin\$ or detect\$))) | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/19 14:30 |
| S103 | 1218 | ((television or TV! or video) with (channel or media or program\$4 or content)) same ((unoccup\$3 or occupied or occupancy or presence)) same (((who! or person or user or individual or viewer or occupant or identity) with (identi\$6 or recogni\$7 or determin\$ or detect\$))) | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/19 14:30 |
| S102 | 0 | (11/183602).APP. | USPAT; USOCR | ADJ | ON | 2011/02/19 14:30 |
| S101 | 55 | (US-20090125151-\$ or US-20090099699-\$ or US-20100123560-\$ or US-20100019051-\$ or US-20090284344-\$ or US-20090140838-\$ or US-20080281472-\$ or US-20070146126-\$ or US-20070040672-\$ or US-20070008149-\$ or US-20060267780-\$ or US-20040155781-\$ or US-20100156608-\$ or US-20100138007-\$ or US-20090055403-\$ or US- | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/19 14:30 |

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|------|------|---|--------------------------------|-----|----|---------------------|
| | | 20060283938-\$ or US-20040178889-\$ or US-20040231003-\$).did. or (US-6912429-\$ or US-6851621-\$ or US-5682949-\$ or US-6145751-\$ or US-H002176-\$ or US-6549130-\$ or US-6542076-\$ or US-6351693-\$ or US-6549816-\$ or US-6671586-\$ or US-6643567-\$ or US-6633823-\$ or US-6628997-\$ or US-6622926-\$ or US-6622925-\$ or US-6622097-\$ or US-6619555-\$ or US-6598056-\$ or US-6595430-\$ or US-6594825-\$ or US-6574537-\$ or US-6536675-\$ or US-6480803-\$ or US-6437692-\$ or US-6400996-\$ or US-6178362-\$).did. or (US-5717609-\$ or US-5572438-\$ or US-4674027-\$ or US-4403644-\$ or US-7354005-\$ or US-7392042-\$ or US-7248170-\$ or US-7027617-\$ or US-6633223-\$ or US-7061393-\$).did. or (WO-2009069998-\$).did. | | | | |
| S100 | 1 | (10/672712).APP. | USPAT; USOCR | ADJ | ON | 2011/02/19 14:30 |
| S99 | 9 | ((video or television or TV! or DVD!) near5 (in\$1-use or usage or turned adj on)) and S94 | US-PGPUB; USPAT; DERWENT | AND | ON | 2011/02/19 14:30 |
| S98 | 2 | (television near5 (in\$1-use or usage or turned adj on)) and S94 | US-PGPUB; USPAT; DERWENT | AND | ON | 2011/02/19 14:30 |
| S97 | 186 | S96 and S78 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/19 14:30 |
| S96 | 2489 | ((unoccup\$3 or occup\$3 or occupancy or presence) same ((who! or person or user! or identity or individual) near3 (identif\$5 or recogni\$7))).ti,ab,clm. | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/19 14:30 |
| S95 | 356 | S94 and S78 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/19 14:30 |
| S94 | 4976 | ((unoccup\$3 or occup\$3 or occupancy or presence) same ((who! or person or user! or identity or individual) with (identif\$5 or recogni\$7))).ti,ab,clm. | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/19 14:30 |
| S93 | 99 | S78 and S92 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/19 14:30 |

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|-----|--------|---|--------------------------------|-----|----|---------------------|
| S92 | 1005 | ((unoccup\$3 or occup\$3 or occupancy or presence) same ((who! or person or user! or identity) with (identify or recognize))).ti,ab,clm. | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/19 14:30 |
| S91 | 27 | ("20090099699" "20090125151" "4403644" "4674027" "5572438" "5717609" "6145751" "6178362" "6351693" "6400996" "6437692" "6480803" "6536675" "6542076" "6549130" "6574537" "6594825" "6595430" "6598056" "6619555" "6622097" "6622925" "6622926" "6628997" "6633823" "6643567" "6671586").PN. | US-PGPUB; USPAT; USOCR | ADJ | ON | 2011/02/19 14:30 |
| S90 | 0 | ("H002176").URPN. | USPAT | ADJ | ON | 2011/02/19 14:30 |
| S89 | 16 | ("6145751").URPN. | USPAT | ADJ | ON | 2011/02/19 14:30 |
| S88 | 1 | S85 and S75 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/19 14:30 |
| S87 | 1 | S85 and S77 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/19 14:30 |
| S86 | 771 | S85 and S78 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/19 14:30 |
| S85 | 8709 | (unoccup\$3 or occup\$3 or occupancy or presence) same ((who! or person or user! or identity) with (identify or recognize)) | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/19 14:30 |
| S84 | 12 | S81 or S82 or S83 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/19 14:30 |
| S83 | 6 | S80 and S75 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/19 14:30 |
| S82 | 6 | S80 and S77 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/19 14:30 |
| S81 | 5 | S80 and S79 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/19 14:30 |
| S80 | 138664 | (unoccup\$3 or occup\$3 or occupancy or presence) with (who! or person or user! or identi\$2) | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/19 14:30 |

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|------|--------|---|---------------------------------------|-----|----|---------------------|
| S79 | 13 | (unoccup\$3 or occup\$3 or occupancy) and S77 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/19 14:30 |
| S78 | 213926 | ("236"/\$ "700"/\$ "340"/\$).ccls. | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/19 14:30 |
| S77 | 31 | ("236"/\$ "700"/\$ "340"/\$).ccls. | US-PGPUB; USPAT; DERWENT | AND | ON | 2011/02/19 14:30 |
| S76 | 424 | 700/276.cor. | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/19 14:30 |
| S75 | 57 | "20090099699" "20090125151" "4403644" "4674027" "5572438" "5717609" "6145751" "6178362" "6351693" "6400996" "6437692" "6480803" "6536675" "6542076" "6549130" "6574537" "6594825" "6595430" "6598056" "6619555" "6622097" "6622925" "6622926" "6628997" "6633823" "6643567" "6671586").PN. | US-PGPUB; USPAT; USOCR; DERWENT | ADJ | ON | 2011/02/19 14:30 |
| S74 | 59 | ((JOHN) near2 (STEINBERG)). INV. | US-PGPUB; USPAT | ADJ | ON | 2011/02/19 14:30 |
| S73 | 1 | "61134714".rlan. or ("61".src. and "134714".ap.) | US-PGPUB; USPAT; USOCR; DERWENT | ADJ | ON | 2011/02/19 14:30 |
| S72 | 1 | "12502064".rlan. or ("12".src. and "502064".ap.) | US-PGPUB; USPAT; USOCR; DERWENT | ADJ | ON | 2011/02/19 14:30 |
| S118 | 14 | (US-20080281472-\$ or US- 20100156608-\$ or US- 20100162285-\$ or US- 20090052859-\$ or US- 20060045105-\$ or US- 20070146126-\$).did. or (US- 5977964-\$ or US-5682949-\$ or US-H002176-\$ or US-7061393- \$ or US-7260823-\$ or US- 7242988-\$ or US-7483964-\$ or US-6912429-\$).did. | US-PGPUB; USPAT | ADJ | ON | 2011/02/19 14:37 |

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|------|----|--|--------------------------------|-----|----|---------------------|
| S117 | 80 | (US-20090125151-\$ or US-20090099699-\$ or US-20100123560-\$ or US-20100019051-\$ or US-20090284344-\$ or US-20090140838-\$ or US-20080281472-\$ or US-20070146126-\$ or US-20070040672-\$ or US-20070008149-\$ or US-20060267780-\$ or US-20040155781-\$ or US-20100156608-\$ or US-20100138007-\$ or US-20090055403-\$ or US-20060283938-\$ or US-20040178889-\$ or US-20040231003-\$ or US-20100162285-\$ or US-20090293079-\$ or US-20090147772-\$ or US-20090052859-\$ or US-20060045105-\$).did. or (US-6912429-\$ or US-6851621-\$ or US-5682949-\$ or US-6145751-\$ or US-H002176-\$ or US-6549130-\$ or US-6542076-\$ or US-6351693-\$ or US-6549816-\$ or US-6671586-\$ or US-6643567-\$ or US-6633823-\$ or US-6628997-\$ or US-6622926-\$ or US-6622925-\$ or US-6622097-\$ or US-6619555-\$ or US-6598056-\$ or US-6595430-\$ or US-6594825-\$ or US-6574537-\$ or US-6536675-\$ or US-6480803-\$ or US-6437692-\$ or US-6400996-\$ or US-6178362-\$).did. or (US-5717609-\$ or US-5572438-\$ or US-4674027-\$ or US-4403644-\$ or US-7354005-\$ or US-7392042-\$ or US-7248170-\$ or US-7027617-\$ or US-6633223-\$ or US-7061393-\$ or US-5977964-\$ or US-7260823-\$ or US-7242988-\$ or US-7483964-\$ or US-6640145-\$ or US-6418424-\$ or US-7706928-\$ or US-7702421-\$ or US-7644869-\$ or US-6260765-\$ or US-5818347-\$ or US-5555927-\$ or US-5544036-\$ or US-5462225-\$ or US-5314004-\$ or US-5270952-\$ or US-5244146-\$).did. or (US-4655279-\$ or US-4341345-\$ or US-4136732-\$).did. or (WO-2009069998-\$).did. | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/19 14:37 |
|------|----|--|--------------------------------|-----|----|---------------------|

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|------|-----|---|--------------------------------|-----|----|---------------------|
| S119 | 0 | S118 and (non\$1occup\$) | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/19 14:38 |
| S120 | 2 | S117 and (non\$1occup\$) | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/19 14:39 |
| S124 | 16 | (unoccup\$3 or non\$1occup\$4) and S123 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/24 13:59 |
| S123 | 53 | (US-20090125151-\$ or US- 20090099699-\$ or US- 20100162285-\$ or US- 20100156608-\$ or US- 20090052859-\$ or US- 20080281472-\$ or US- 20070146126-\$ or US- 20060045105-\$).did. or (US- 6671586-\$ or US-6643567-\$ or US-6633823-\$ or US-6628997-\$ or US-6622926-\$ or US- 6622925-\$ or US-6622097-\$ or US-6619555-\$ or US-6598056-\$ or US-6595430-\$ or US- 6594825-\$ or US-6574537-\$ or US-6549130-\$ or US-6542076-\$ or US-6536675-\$ or US- 6480803-\$ or US-6437692-\$ or US-6400996-\$ or US-6351693-\$ or US-6178362-\$ or US- 6145751-\$ or US-5717609-\$ or US-5572438-\$ or US-4674027-\$ or US-4403644-\$ or US- 7644869-\$).did. or (US- 6260765-\$ or US-5818347-\$ or US-5555927-\$ or US-5544036-\$ or US-5462225-\$ or US- 5314004-\$ or US-5270952-\$ or US-5244146-\$ or US-4655279-\$ or US-4341345-\$ or US- 4136732-\$ or US-7483964-\$ or US-7260823-\$ or US-7242988-\$ or US-H002176-\$ or US- 7061393-\$ or US-6912429-\$ or US-5977964-\$ or US-5682949- \$).did. | US-PGPUB; USPAT | ADJ | ON | 2011/02/24 13:59 |
| S126 | 0 | (unoccup\$3 or non\$1occup\$4) with (notice or prompt or message or confirm\$5) and S123 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/24 14:01 |
| S125 | 472 | (unoccup\$3 or non\$1occup\$4) with (notice or prompt or message or confirm\$5) | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/24 14:01 |
| S129 | 12 | (unoccup\$3 or non\$1occup\$4) and (notic\$2 or prompt\$3 or messag\$3 or confirm\$5) and S123 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/24 14:02 |

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|------|----|---|--------------------------------|-----|----|---------------------|
| S128 | 0 | (unoccup\$3 or non\$1occup\$4) same (notic\$2 or prompt\$3 or messag\$3 or confirm\$5) and S123 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/24 14:02 |
| S127 | 0 | (unoccup\$3 or non\$1occup\$4) with (notic\$2 or prompt\$3 or messag\$3 or confirm\$5) and S123 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/24 14:02 |
| S130 | 60 | ("5682949").URPN. | USPAT | ADJ | ON | 2011/02/24 14:05 |
| S132 | 2 | S131 not S129 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/24 14:08 |
| S131 | 14 | (unoccup\$3 or non\$1occup\$4) and (notic\$2 or notif\$7 or prompt\$3 or messag\$3 or confirm\$5) and S123 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/24 14:08 |
| S133 | 19 | ("6912429").URPN. | USPAT | ADJ | ON | 2011/02/24 14:10 |
| S134 | 14 | (unoccup\$3 or non\$1occup\$4) and (notic\$2 or notif\$7 or prompt\$3 or messag\$3 or confirm\$5 or user near input\$3) and S123 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/24 14:14 |
| S135 | 84 | ("6549130").URPN. | USPAT | ADJ | ON | 2011/02/24 14:15 |
| S137 | 22 | (unoccup\$3 or non\$1occup\$4) and (notic\$2 or notif\$7 or prompt\$3 or messag\$3 or confirm\$5 or user near input\$3) and S136 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/24 14:20 |
| S136 | 87 | (US-20090125151-\$ or US-20090099699-\$ or US-20100123560-\$ or US-20100019051-\$ or US-20090284344-\$ or US-20090140838-\$ or US-20080281472-\$ or US-20070146126-\$ or US-20070040672-\$ or US-20070008149-\$ or US-20060267780-\$ or US-20040155781-\$ or US-20100156608-\$ or US-20100138007-\$ or US-20090055403-\$ or US-20060283938-\$ or US-20040178889-\$ or US-20040231003-\$ or US-20100162285-\$ or US-20090293079-\$ or US-20090147772-\$ or US-20090052859-\$ or US-20060045105-\$).did. or (US-6912429-\$ or US-6851621-\$ or US-5682949-\$ or US-6145751-\$ | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/24 14:20 |

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|------|-----|---|---------------------------------------|-----|----|---------------------|
| | | or US-H002176-\$ or US-6549130-\$ or US-6542076-\$ or US-6351693-\$ or US-6549816-\$ or US-6671586-\$ or US-6643567-\$ or US-6633823-\$ or US-6628997-\$ or US-6622926-\$ or US-6622925-\$ or US-6622097-\$ or US-6619555-\$ or US-6598056-\$ or US-6595430-\$ or US-6594825-\$ or US-6574537-\$ or US-6536675-\$ or US-6480803-\$ or US-6437692-\$ or US-6400996-\$ or US-6178362-\$).did. or (US-5717609-\$ or US-5572438-\$ or US-4674027-\$ or US-4403644-\$ or US-7354005-\$ or US-7392042-\$ or US-7248170-\$ or US-7027617-\$ or US-6633223-\$ or US-7061393-\$ or US-5977964-\$ or US-7260823-\$ or US-7242988-\$ or US-7483964-\$ or US-6640145-\$ or US-6418424-\$ or US-7706928-\$ or US-7702421-\$ or US-7644869-\$ or US-6260765-\$ or US-5818347-\$ or US-5555927-\$ or US-5544036-\$ or US-5462225-\$ or US-5314004-\$ or US-5270952-\$ or US-5244146-\$). did. or (US-4655279-\$ or US-4341345-\$ or US-4136732-\$ or US-7509402-\$ or US-7587464-\$ or US-7590703-\$ or US-7657636-\$ or US-7455236-\$ or US-7421727-\$ or US-7156316-\$).did. or (WO-2009069998-\$). did. | | | | |
| S138 | 10 | (unoccup\$3 or non\$1occup\$4) same (notic\$2 or notif\$7 or prompt\$3 or messag\$3 or confirm\$5 or user near input\$3 or validat\$3) and S136 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/24 14:26 |
| S139 | 1 | "12502064".rlan. or ("12".src. and "502064".ap.) | US-PGPUB; USPAT; USOCR; DERWENT | ADJ | ON | 2011/02/24 14:31 |
| S141 | 8 | ("20080283621" "5261481" "5476221" "6196468").PN. | US-PGPUB; USPAT; USOCR; DERWENT | ADJ | ON | 2011/02/24 14:33 |
| S140 | 1 | "12177822".rlan. or ("12".src. and "177822".ap.) | US-PGPUB; USPAT; USOCR; DERWENT | ADJ | ON | 2011/02/24 14:33 |
| S142 | 1 | ("5261481").URPN. | USPAT | ADJ | ON | 2011/02/24 14:36 |
| S143 | 137 | 62/176.6.cor. | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/24 14:37 |

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| S146 | 4766 | (unoccup\$3 or non\$1occup\$4 or occupied) with (notic\$2 or notif\$7 or prompt\$3 or messag\$3 or confirm\$5 or user near input\$3 or validat\$3 or verif\$7) | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/24 14:39 |
| S145 | 655 | (unoccup\$3 or non\$1occup\$4) with (notic\$2 or notif\$7 or prompt\$3 or messag\$3 or confirm\$5 or user near input\$3 or validat\$3 or verif\$7) | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/24 14:39 |
| S144 | 10 | (unoccup\$3 or non\$1occup\$4) same (notic\$2 or notif\$7 or prompt\$3 or messag\$3 or confirm\$5 or user near input\$3 or validat\$3 or verif\$7) and S136 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/24 14:39 |
| S149 | 11 | (S147 or S148) and S146 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/24 14:40 |
| S148 | 53 | (US-20090125151-\$ or US-20090099699-\$ or US-20100162285-\$ or US-20100156608-\$ or US-20090052859-\$ or US-20080281472-\$ or US-20070146126-\$ or US-20060045105-\$).did. or (US-6671586-\$ or US-6643567-\$ or US-6633823-\$ or US-6628997-\$ or US-6622926-\$ or US-6622925-\$ or US-6622097-\$ or US-6619555-\$ or US-6598056-\$ or US-6595430-\$ or US-6594825-\$ or US-6574537-\$ or US-6549130-\$ or US-6542076-\$ or US-6536675-\$ or US-6480803-\$ or US-6437692-\$ or US-6400996-\$ or US-6351693-\$ or US-6178362-\$ or US-6145751-\$ or US-5717609-\$ or US-5572438-\$ or US-4674027-\$ or US-4403644-\$ or US-7644869-\$).did. or (US-6260765-\$ or US-5818347-\$ or US-5555927-\$ or US-5544036-\$ or US-5462225-\$ or US-5314004-\$ or US-5270952-\$ or US-5244146-\$ or US-4655279-\$ or US-4341345-\$ or US-4136732-\$ or US-7483964-\$ or US-7260823-\$ or US-7242988-\$ or US-H002176-\$ or US-7061393-\$ or US-6912429-\$ or US-5977964-\$ or US-5682949-\$).did. | US-PGPUB; USPAT | ADJ | ON | 2011/02/24 14:40 |

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|------|----|---|--------------------------------|-----|----|---------------------|
| S147 | 90 | (US-20090125151-\$ or US-20090099699-\$ or US-20100123560-\$ or US-20100019051-\$ or US-20090284344-\$ or US-20090140838-\$ or US-20080281472-\$ or US-20070146126-\$ or US-20070040672-\$ or US-20070008149-\$ or US-20060267780-\$ or US-20040155781-\$ or US-20100156608-\$ or US-20100138007-\$ or US-20090055403-\$ or US-20060283938-\$ or US-20040178889-\$ or US-20040231003-\$ or US-20100162285-\$ or US-20090293079-\$ or US-20090147772-\$ or US-20090052859-\$ or US-20060045105-\$).did. or (US-6912429-\$ or US-6851621-\$ or US-5682949-\$ or US-6145751-\$ or US-H002176-\$ or US-6549130-\$ or US-6542076-\$ or US-6351693-\$ or US-6549816-\$ or US-6671586-\$ or US-6643567-\$ or US-6633823-\$ or US-6628997-\$ or US-6622926-\$ or US-6622925-\$ or US-6622097-\$ or US-6619555-\$ or US-6598056-\$ or US-6595430-\$ or US-6594825-\$ or US-6574537-\$ or US-6536675-\$ or US-6480803-\$ or US-6437692-\$ or US-6400996-\$ or US-6178362-\$).did. or (US-5717609-\$ or US-5572438-\$ or US-4674027-\$ or US-4403644-\$ or US-7354005-\$ or US-7392042-\$ or US-7248170-\$ or US-7027617-\$ or US-6633223-\$ or US-7061393-\$ or US-5977964-\$ or US-7260823-\$ or US-7242988-\$ or US-7483964-\$ or US-6640145-\$ or US-6418424-\$ or US-7706928-\$ or US-7702421-\$ or US-7644869-\$ or US-6260765-\$ or US-5818347-\$ or US-5555927-\$ or US-5544036-\$ or US-5462225-\$ or US-5314004-\$ or US-5270952-\$ or US-5244146-\$).did. or (US-4655279-\$ or US-4341345-\$ or US-4136732-\$ or US-7509402-\$ or US-7587464-\$ or US-7590703-\$ or US-7657636-\$ or US-7455236-\$ or | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/24 14:40 |
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|------|--------|---|--------------------------------|-----|----|---------------------|
| | | US-7421727-\$ or US-7156316-\$ or US-5261481-\$ or US-7793510-\$).did. or (WO-2009069998-\$ or US-6196468-\$).did. | | | | |
| S153 | 0 | (12/041472).APP. | USPAT; USOCR | ADJ | ON | 2011/02/24 14:53 |
| S152 | 5 | S151 and S150 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/24 14:53 |
| S151 | 11543 | (unoccup\$3 or non\$1occup\$4 or occupied) same (notic\$2 or notif\$7 or prompt\$3 or messag\$3 or confirm\$5 or user near input\$3 or validat\$3 or verif\$7) | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/24 14:53 |
| S150 | 17 | (US-20090052859-\$ or US-20080281472-\$ or US-20100156608-\$ or US-20100162285-\$ or US-20060045105-\$ or US-20080283621-\$).did. or (US-5977964-\$ or US-5261481-\$ or US-6594825-\$ or US-5682949-\$ or US-H002176-\$ or US-7354005-\$ or US-7061393-\$ or US-7260823-\$ or US-7242988-\$ or US-7483964-\$ or US-6351693-\$).did. | US-PGPUB; USPAT | ADJ | ON | 2011/02/24 14:53 |
| S155 | 6 | S154 and S150 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/24 14:55 |
| S154 | 205997 | (unoccup\$3 or non\$1occup\$4 or occupied or presence) same (notic\$2 or notif\$7 or prompt\$3 or messag\$3 or confirm\$5 or user near input\$3 or validat\$3 or verif\$7) | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/24 14:55 |
| S156 | 0 | (12/041472).APP. | USPAT; USOCR | ADJ | ON | 2011/02/26 13:54 |
| S159 | 32 | S157 and S158 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/26 13:55 |
| S158 | 206013 | (unoccup\$3 or non\$1occup\$4 or occupied or presence) same (notic\$2 or notif\$7 or prompt\$3 or messag\$3 or confirm\$5 or user near input\$3 or validat\$3 or verif\$7) | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/26 13:55 |

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|------|----|--|--------------------------------|-----|----|---------------------|
| S157 | 91 | (US-20090125151-\$ or US-20090099699-\$ or US-20100123560-\$ or US-20100019051-\$ or US-20090284344-\$ or US-20090140838-\$ or US-20080281472-\$ or US-20070146126-\$ or US-20070040672-\$ or US-20070008149-\$ or US-20060267780-\$ or US-20040155781-\$ or US-20100156608-\$ or US-20100138007-\$ or US-20090055403-\$ or US-20060283938-\$ or US-20040178889-\$ or US-20040231003-\$ or US-20100162285-\$ or US-20090293079-\$ or US-20090147772-\$ or US-20090052859-\$ or US-20060045105-\$ or US-20080283621-\$).did. or (US-6912429-\$ or US-6851621-\$ or US-5682949-\$ or US-6145751-\$ or US-H002176-\$ or US-6549130-\$ or US-6542076-\$ or US-6351693-\$ or US-6549816-\$ or US-6671586-\$ or US-6643567-\$ or US-6633823-\$ or US-6628997-\$ or US-6622926-\$ or US-6622925-\$ or US-6622097-\$ or US-6619555-\$ or US-6598056-\$ or US-6595430-\$ or US-6594825-\$ or US-6574537-\$ or US-6536675-\$ or US-6480803-\$ or US-6437692-\$ or US-6400996-\$ or US-6178362-\$).did. or (US-5717609-\$ or US-5572438-\$ or US-4674027-\$ or US-4403644-\$ or US-7354005-\$ or US-7392042-\$ or US-7248170-\$ or US-7027617-\$ or US-6633223-\$ or US-7061393-\$ or US-5977964-\$ or US-7260823-\$ or US-7242988-\$ or US-7483964-\$ or US-6640145-\$ or US-6418424-\$ or US-7706928-\$ or US-7702421-\$ or US-7644869-\$ or US-6260765-\$ or US-5818347-\$ or US-5555927-\$ or US-5544036-\$ or US-5462225-\$ or US-5314004-\$ or US-5270952-\$ or US-5244146-\$).did. or (US-4655279-\$ or US-4341345-\$ or US-4136732-\$ or US-7509402-\$ or US-7587464-\$ or US-7590703-\$ or US- | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/26 13:55 |
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| | | 7657636-\$ or US-7455236-\$ or US-7421727-\$ or US-7156316-\$ or US-5261481-\$ or US-7793510-\$.did. or (WO-2009069998-\$ or US-6196468-\$).did. | | | | |
| S161 | 429 | 700/276.cor. | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/26 16:34 |
| S160 | 137 | 62/176.6.cor. | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/26 16:34 |
| S162 | 445 | 236/46R.cor. | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/26 16:35 |
| S163 | 989 | 700/276,278,295,296.cor. | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/26 16:36 |
| S164 | 3 | (US-20090052859-\$ or US-20080281472-\$).did. or (US-5977964-\$).did. | US-PGPUB; USPAT | ADJ | ON | 2011/02/26 16:52 |
| S166 | 1 | S165 and S164 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/26 16:53 |
| S165 | 206013 | (unoccup\$3 or non\$1occup\$4 or occupied or presence) same (notic\$2 or notif\$7 or prompt\$3 or messag\$3 or confirm\$5 or user near input\$3 or validat\$3 or verif\$7) | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/26 16:53 |
| L3 | 0 | l1 and L2 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/26 18:21 |
| L2 | 206013 | (unoccup\$3 or non\$1occup\$4 or occupied or presence) same (notic\$2 or notif\$7 or prompt\$3 or messag\$3 or confirm\$5 or user near input\$3 or validat\$3 or verif\$7) | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/26 18:21 |
| L1 | 2 | "7055759".pn. | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/26 18:21 |
| L4 | 1 | (unoccup\$3 or non\$1occup\$4 or occupied or presence) and l1 | US-PGPUB; USPAT; DERWENT | OR | ON | 2011/02/26 18:22 |
| L6 | 8 | ((unoccup\$3 or occup\$3 or occupancy or presence) same ((who! or person or user! or identity or individual) with (identif\$5 or recogni\$7))) and l5 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/26 19:13 |

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|-----|----|--|--------------------------------|-----|----|---------------------|
| L5 | 15 | (US-20080281472-\$ or US-20100156608-\$ or US-20100162285-\$ or US-20090052859-\$ or US-20060045105-\$ or US-20070146126-\$).did. or (US-5977964-\$ or US-5682949-\$ or US-H002176-\$ or US-7061393-\$ or US-7260823-\$ or US-7242988-\$ or US-7483964-\$ or US-6912429-\$ or US-7055759-\$).did. | US-PGPUB; USPAT | ADJ | ON | 2011/02/26 19:13 |
| L7 | 7 | (prompt\$3 or ask\$3) and I5 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/26 19:14 |
| L11 | 2 | ((prompt\$3 or ask\$3) same I2) and I10 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/26 19:15 |
| L10 | 92 | (US-20090125151-\$ or US-20090099699-\$ or US-20100123560-\$ or US-20100019051-\$ or US-20090284344-\$ or US-20090140838-\$ or US-20080281472-\$ or US-20070146126-\$ or US-20070040672-\$ or US-20070008149-\$ or US-20060267780-\$ or US-20040155781-\$ or US-20100156608-\$ or US-20100138007-\$ or US-20090055403-\$ or US-20060283938-\$ or US-20040178889-\$ or US-20040231003-\$ or US-20100162285-\$ or US-20090293079-\$ or US-20090147772-\$ or US-20090052859-\$ or US-20060045105-\$ or US-20080283621-\$).did. or (US-6912429-\$ or US-6851621-\$ or US-5682949-\$ or US-6145751-\$ or US-H002176-\$ or US-6549130-\$ or US-6542076-\$ or US-6351693-\$ or US-6549816-\$ or US-6671586-\$ or US-6643567-\$ or US-6633823-\$ or US-6628997-\$ or US-6622926-\$ or US-6622925-\$ or US-6622097-\$ or US-6619555-\$ or US-6598056-\$ or US-6595430-\$ or US-6594825-\$ or US-6574537-\$ or US-6536675-\$ or US-6480803-\$ or US-6437692-\$ or US-6400996-\$ or US-6178362-\$).did. or (US- | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/26 19:15 |

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| | | 5717609-\$ or US-5572438-\$ or US-4674027-\$ or US-4403644-\$ or US-7354005-\$ or US-7392042-\$ or US-7248170-\$ or US-7027617-\$ or US-6633223-\$ or US-7061393-\$ or US-5977964-\$ or US-7260823-\$ or US-7242988-\$ or US-7483964-\$ or US-6640145-\$ or US-6418424-\$ or US-7706928-\$ or US-7702421-\$ or US-7644869-\$ or US-6260765-\$ or US-5818347-\$ or US-5555927-\$ or US-5544036-\$ or US-5462225-\$ or US-5314004-\$ or US-5270952-\$ or US-5244146-\$). did. or (US-4655279-\$ or US-4341345-\$ or US-4136732-\$ or US-7509402-\$ or US-7587464-\$ or US-7590703-\$ or US-7657636-\$ or US-7455236-\$ or US-7421727-\$ or US-7156316-\$ or US-5261481-\$ or US-7793510-\$ or US-7055759-\$). did. or (WO-2009069998-\$ or US-6196468-\$).did. | | | | |
| L9 | 0 | ((prompt\$3 or ask\$3) same l2) and l5 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/26 19:15 |
| L8 | 10561 | ((prompt\$3 or ask\$3) same l2) | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/26 19:15 |
| L12 | 0 | "are you there" | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2011/02/26 19:18 |

EAST Search History (I nterference)

| Ref # | Hits | Search Query | DBs | Default Operator | Plurals | Time Stamp |
|-------|------|--|------|------------------|---------|------------------|
| S122 | 25 | ((unoccup\$3 or occup\$3 or occupancy or presence) same ((who! or person or user! or identity) with (identify or recognize))).ti,ab,clm. | UPAD | OR | ON | 2011/02/19 14:30 |
| S121 | 216 | ((unoccup\$3 or occup\$3 or occupancy or presence) same ((who! or person or user! or identity) with (identify or recognize))) | UPAD | OR | ON | 2011/02/19 14:30 |

2/ 26/ 2011 8:03:17 PM

C:\ Documents and Settings\ drobertson2\ My Documents\ EAST\ Workspaces\ 12502064 Steinberg energy use monitor tv viewing habits.wsp

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| Index of Claims *1250206 4* | Application/Control No. 12502064 | Applicant(s)/Patent Under Reexamination STEINBERG, JOHN DOUGLAS |
| | Examiner Dave Robertson | Art Unit 2121 |

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| ✓ | Rejected |
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| N | Non-Elected |
| I | Interference |

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| A | Appeal |
| O | Objected |

Claims renumbered in the same order as presented by applicant
 CPA
 T.D.
 R.1.47

| CLAIM | | DATE | | | | | | | |
|-------|----------|------------|------------|--|--|--|--|--|--|
| Final | Original | 09/28/2010 | 02/26/2011 | | | | | | |
| | 1 | ✓ | ✓ | | | | | | |
| | 2 | ✓ | ✓ | | | | | | |
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| | 9 | ✓ | ✓ | | | | | | |
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| | 21 | ✓ | ✓ | | | | | | |
| | 22 | ✓ | ✓ | | | | | | |

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| INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Application No. | 12/502064 |
| | Filing Date | 07-13-2009 |
| | First Named Inventor | Steinberg, John Douglas |
| | Art Unit | 2121 |
| (Multiple sheets used when necessary) | Examiner | Robertson, David |
| SHEET 1 OF 1 | Attorney Docket No. | EFACT.011A |

| U.S. PATENT DOCUMENTS | | | | | |
|-----------------------|----------|---|--------------------------------|-------------------------------|--|
| Examiner Initials | Cite No. | Document Number Number - Kind Code (if known) Example: 1,234,567 B1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear |
| | 1 | 4,136,732 | 01-1979 | Demaray et al. | |
| | 2 | 4,341,345 | 07-1982 | Hammer et al. | |
| | 3 | 4,655,279 | 04-1987 | Harmon | |
| | 4 | 5,244,146 | 09-1993 | Jefferson et al. | |
| | 5 | 5,270,952 | 12-1993 | Adams et al. | |
| | 6 | 5,314,004 | 05-1994 | Strand et al. | |
| | 7 | 5,462,225 | 10-1995 | Massara et al. | |
| | 8 | 5,544,036 | 08-1996 | Brown et al. | |
| | 9 | 5,555,927 | 09-1996 | Shah | |
| | 10 | 5,818,347 | 10-06-1998 | Dolan et al. | |
| | 11 | 6,260,765 | 07-2001 | Natale et al. | |
| | 12 | 7,644,869 | 01-2010 | Hoglund et al. | |
| | 13 | 2009/0099699 A1 | 04-16-2009 | Steinberg et al. | |
| | 14 | 2009/0125151 A1 | 05-14-2009 | Steinberg et al. | |

| FOREIGN PATENT DOCUMENTS | | | | | | |
|--------------------------|----------|--|--------------------------------|-------------------------------|--|----------------|
| Examiner Initials | Cite No. | Foreign Patent Document Country Code-Number-Kind Code Example: JP 1234567 A1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear | T ¹ |

| NON PATENT LITERATURE DOCUMENTS | | | |
|---------------------------------|----------|---|----------------|
| Examiner Initials | Cite No. | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T ¹ |
| | 15 | Honeywell Programmable Thermostat Owner's Guide, www.honeywell.com/yourhome 2004 | |
| | 16 | Honeywell, "W7600/W7620 Controller Reference Manual, HW0021207, October, 1992 | |

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| | | | |
|--------------------|-------------------------------|-----------------|------------|
| Examiner Signature | /Dave Robertson/ (02/17/2011) | Date Considered | 02/17/2011 |
|--------------------|-------------------------------|-----------------|------------|

*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | |
|-----------|--|
| Applicant | : John Douglas Steinberg |
| App. No | : 12/502,064 |
| Filed | : July 13, 2009 |
| For | : SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM |
| Examiner | : David Robertson |
| Art Unit | : 2121 |
| Conf No. | : 5514 |

RESPONSE TO OCTOBER 7, 2010 OFFICE ACTION**Mail Stop Amendment**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action mailed October 7, 2010, Applicant respectfully submits the following amendments and comments.

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Summary of Interview begins on page 6 of this paper.

Remarks/Arguments begin on page 7 of this paper.

AMENDMENTS TO THE CLAIMS

Please amend Claims 1-7, 9, 10, 12-18 and 21 as indicated below.

1. (Currently Amended) A method for varying temperature setpoints for an HVAC system comprising:

storing at least an HVAC temperature setting associated with a structure that is deemed to be non-occupied;

determining whether one or more networked electronic devices inside [[a]] said structure are in use, wherein said networked electronic devices comprise a graphic user interface comprising a display, wherein said networked electronic devices receive input from one or more users and wherein use of said networked electronic devices comprises at least one of cursor movement, keystrokes or other user interface actions intended to alter a state of one or more of said networked electronic devices by one or more users;

determining whether ~~lack of~~ said use of said networked electronic devices indicates non-occupancy of said structure;

providing electronic notice to one or more of said users of said networked electronic devices of a determination of non-occupancy; and

adjusting the temperature setpoint on a thermostatic controller for an HVAC system for said structure ~~to the HVAC temperature associated with a structure that is deemed to be non-occupied based upon user response to said notice whether or not said structure is deemed to be occupied.~~

2. (Currently Amended) The method of Claim 1 in which at least one of said networked electronic device devices is a television.

3. (Currently Amended) The method of Claim 1 in which at least one of said networked electronic device devices is a personal computer.

4. (Currently Amended) The method of Claim 1 in which at least one of said networked electronic device devices is connected to the Internet.

5. (Currently Amended) The method of Claim 1 in which programming being watched or listened to using at least one of said networked electronic device devices is used to determine which occupant of said structure is likely to be present, and the setpoint for said thermostatic controller is selected based upon the preferences of the occupant determined to be using said at least one networked electronic device.

6. (Currently Amended) The method of Claim 1 in which at least one of said networked electronic device devices is a game console.

7. (Currently Amended) The method of Claim 1 in which at least one of said networked electronic device devices communicates with a remote server.

8. (Canceled)

9. (Currently Amended) The method of Claim 1 in which said adjusting of said temperature ~~setpoints~~ setpoint is initiated by a remote computer.

10. (Currently Amended) The method of Claim 1 in which said temperature ~~setpoints are~~ setpoint is varied automatically.

11. (Original) The method of Claim 1 in which an occupant is prompted to confirm occupancy prior to the adjusting of said temperature setpoint.

12. (Currently Amended) A system for altering the setpoint on a thermostat for space conditioning of a structure comprising:

at least one thermostat having at least one temperature setting associated with the presence of one or more occupants in a structure, and at least one temperature setting associated with the absence of occupants in said structure;

one or more electronic devices having at least a graphic user interface comprising a display wherein said electronic devices receive input from one or more users and wherein use of said electronic devices comprises at least one of cursor movement, keystrokes or other user interface actions intended to alter a state of one or more of said electronic devices by one or more users, and

wherein lack of said use of said electronic devices indicates non-occupancy of said structure;

wherein said electronic devices and said thermostat are connected to a network;

an application comprising one or more computer processors in communication with said network, wherein said application provides electronic notice to one or more of said users of said electronic devices of a determination of non-occupancy; and

wherein said setpoint on said thermostat is adjusted ~~between~~ from said temperature setting associated with the presence of one or more occupants in said structure and to said temperature setting associated with the absence of occupants in said structure based upon user response to said notice ~~the use of said user interface for said electronic device.~~

13. (Currently Amended) The system of Claim 12 in which at least one of said electronic device devices is a television.

14. (Currently Amended) The system of Claim 12 in which at least one of said electronic device devices is a personal computer.

15. (Currently Amended) The system of Claim 12 in which at least one of said electronic device devices is connected to the Internet.

16. (Currently Amended) The system of Claim 12 in which the programming being watched or listened to using said ~~networked~~ electronic device devices is used to determine which occupant of said structure is likely to be using at least one of said ~~networked~~ electronic device devices, and the setpoint for said thermostatic controller is selected based upon the preferences of the occupant determined to be using said at least one networked electronic device.

17. (Currently Amended) The system of Claim 12 in which at least one of said ~~networked~~ electronic device devices is a game console.

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18. (Currently Amended) The system of Claim 12 in which at least one of said networked electronic device devices communicates with a remote server.

19. (Canceled)

20. (Original) The system of Claim 12 in which variation of temperature setpoints is initiated by a remote computer.

21. (Currently Amended) The system of Claim 12 in which said temperature ~~setpoints are~~ setpoint is varied automatically.

22. (Original) The system of Claim 12 in which an occupant is prompted to confirm occupancy prior to adjustment of said temperature setpoint.

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Filing Date: July 13, 2009

SUMMARY OF INTERVIEW

Attendees, Date and Type of Interview

The telephonic interview was conducted on December 17, 2010 and attended by Examiner David Robertson, John R. King and John Steinberg.

Exhibits and/or Demonstrations

None.

Identification of Claims Discussed

Claim 1.

Identification of Prior Art Discussed

U.S. Patent No. 5,977,864 to Williams, et al.

Proposed Amendments

See the amendments made to Claim 1 as set forth above.

Principal Arguments and Other Matters

See the remarks made with respect to Claim 1 as set forth below.

Results of Interview

It was Applicant's understanding that Examiner Robertson would further review the amendments upon submission of this response.

REMARKS

The October 7, 2010 Office Action was based upon pending Claims 1-7, 9-18 and 20-22. This Amendment amends Claims 1-7, 9, 10, 12-18 and 21. Thus, after entry of this Amendment, Claims 1-7, 9-18 and 20-22 are pending and presented for further consideration.

REJECTION OF CLAIMS 1-7, 9-18 AND 20-22 UNDER 35 U.S.C. § 102(b)

Claims 1-7, 9-18 and 20-22 under were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,977,864 to Williams, et al. (hereinafter "Williams").

Claim 1

As discussed in the interview, Williams does not 1) monitor usage of a networked electronic device to determine non-occupancy, 2) provide electronic notice of non-occupancy and 3) alter the HVAC temperature to a setpoint for non-occupancy based on user response to the notice.

Because Williams fails to teach these concepts, Applicant respectfully submit that amended Claim 1 is patentable in light of Williams.

Claims 2-7 and 9-11

Claims 2-7 and 9-11 depend from Claim 1 and are believed to be patentable for the same reasons articulated above with respect to Claim 1, and because of the additional features recited therein.

Claim 12

Independent Claim 12 is of different scope than the other independent claims and Applicant requests the Examiner to separately evaluate the patentability of Claim 12 in light of the arguments set forth below.

In particular, Claim 12 is directed to a system for altering the setpoint on a thermostat for space conditioning of a structure comprising at least one thermostat

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having at least one temperature setting associated with the presence of one or more occupants in a structure, and at least one temperature setting associated with the absence of occupants in said structure.

In addition, Claim 12 comprises one or more electronic devices having at least a graphic user interface comprising a display. The networked electronic devices receive input from one or more users. Also, use of the networked electronic devices comprises at least one of cursor movement, keystrokes or other user interface actions intended to alter a state of one or more of said electronic devices by one or more users.

Lack of use of said networked electronic devices indicates non-occupancy of said structure.

Furthermore, the networked electronic devices, the thermostat and an application comprising one or more computer processors are in communication with a network. The application provides electronic notice to one or more of said users of said networked electronic devices of a determination of non-occupancy.

Moreover, the setpoint on said thermostat is adjusted from said temperature setting associated with the presence of one or more occupants in said structure to said temperature setting associated with the absence of occupants in said structure based upon user response to said notice.

Because Williams fails to teach these concepts, Applicant respectfully submits that Claim 12 is patentably distinct from the cited references and Applicant respectfully requests allowance of Claim 12.

Claims 13-18 and 20-22

Claims 13-18 and 20-22 depend from Claim 1 and are believed to be patentable for the same reasons articulated above with respect to Claim 1, and because of the additional features recited therein.

Application No.: 12/502,064
 Filing Date: July 13, 2009

OTHER APPLICATIONS OF ASSIGNEE

Applicant wishes to draw the Examiner's attention to the following applications of the present application's assignee:

| Inventors | Appl. No. | Filing Date | Attorney Docket No. | Title |
|------------------|-------------------------------------|-------------|---------------------|--|
| Steinberg et al. | 60/963,183 Now Expired | 08/03/07 | EFACT.003PR | System And Method For Using A Network Of Thermostats As Tool To Verify Peak Demand Reduction |
| Steinberg et al. | 60/944,011 Now Expired | 09/17/07 | EFACT.005PR | System And Method For Calculating The Thermal Mass Of A Building |
| Steinberg et al. | 12/183,990 | 07/31/08 | EFACT.003A | System And Method For Using A Network Of Thermostats As Tool To Verify Peak Demand Reduction |
| Steinberg et al. | 12/183,949 | 07/31/08 | EFACT.004A | System And Method For Using A Network Of Thermostats As Tool To Verify Peak Demand Reduction |
| Steinberg et al. | 12/211,733 Now Pat. 7,848,900 | 09/16/08 | EFACT.005A | System And Method For Calculating The Thermal Mass Of A Building |
| Steinberg et al. | 12/211,690 | 09/16/08 | EFACT.006A | System And Method For Evaluating Changes In The Efficiency Of An HVAC System |
| Steinberg | 61/215,816 Now Expired | 05/11/09 | EFACT.008PR | System, Method And Apparatus For Dynamically Variable Compressor Delay In Thermostat To Reduce Energy Consumption |
| Steinberg et al. | 61/215,657 Now Expired | 05/08/09 | EFACT.009PR | System, Method And Apparatus For Just-In-Time Conditioning Using A Thermostat |
| Steinberg et al. | 61/215,999 Now Expired | 05/12/09 | EFACT.007PR | System, Method And Apparatus For Identifying Manual Inputs To And Adaptive Programming Of A Thermostat |
| Cheung et al. | 12/498,142 | 07/06/09 | EFACT.010A | System And Method For Using Ramped Setpoint Temperature Variation With Networked Thermostats To Improve Efficiency |
| Steinberg et al. | 12/773,690 | 05/04/10 | EFACT.009A | System, Method And Apparatus For Just-In-Time Conditioning Using A Thermostat |
| Steinberg | 12/774,580 | 05/05/10 | EFACT.008A | System, Method And Apparatus For Dynamically Variable Compressor Delay In Thermostat To Reduce Energy Consumption |

Application No.: 12/502,064
Filing Date: July 13, 2009

| Inventors | Appl. No. | Filing Date | Attorney Docket No. | Title |
|------------------|------------------|--------------------|----------------------------|--|
| Steinberg et al. | 12/778,052 | 05/11/10 | EFACT.007A | System, Method And Apparatus For Identifying Manual Inputs To And Adaptive Programming Of A Thermostat |
| Steinberg | 12/788,246 | 05/26/10 | EFACT.012A | System And Method For Using A Mobile Electronic Device To Optimize An Energy Management System |
| Steinberg | 12/860,821 | 08/20/10 | EFACT.013A | System And Method For Optimizing Use Of Plug-In Air Conditioners And Portable Heaters |
| Steinberg et al. | 12/959225 | 12/02/10 | EFACT.005C1 | System And Method For Calculating The Thermal Mass Of A Building |

Applicant notes that cited references, office actions, responses and notices of allowance currently exist or will exist for the above-referenced matters. Applicant also understands that the Examiner has access to sophisticated online Patent Office computing systems that provide ready access to the full file histories of these matters including, for example, specifications, drawings, pending claims, cited art, office actions, responses, declarations, and notices of allowance.

Rather than submit copies these file histories, Applicant respectfully requests that the Examiner continue to review these file histories online for past, current, and future information about these matters.

Also, if the Examiner cannot readily access these file histories, the Applicant would be pleased to provide any portion of any of the file histories at any time upon specific Examiner request.

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Submitted concurrently herewith is a Supplemental Information Disclosure Statement citing 16 new references. Applicant respectfully requests the Examiner to consider the pending claims in connection with these references in order to make the references of record.

Application No.: 12/502,064
Filing Date: July 13, 2009

NO DISCLAIMERS OR DISAVOWALS

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application.

Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution.

Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

CONCLUSION

Applicant has endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. In light of the above remarks, reconsideration and withdrawal of the outstanding rejections is specifically requested. Also, please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 2-7-2011

By: John R. King
John R. King
Registration No. 34,362
Attorney of Record
Customer No. 20,995
(949) 760-0404

INFORMATION DISCLOSURE STATEMENT

Applicant : John Douglas Steinberg
App. No : 12/502,064
Filed : July 13, 2009
For : SYSTEM AND METHOD FOR USING A NETWORKED
ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR
AN ENERGY MANAGEMENT SYSTEM
Examiner : Robertson, David
Art Unit : 2121
Conf No. : 5514

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Enclosed for filing in the above-identified application is a PTO/SB/08 Equivalent listing sixteen (16) references, of which two (2) are enclosed/submitted.

This Information Disclosure Statement is being filed before the mailing date of a final action and before the mailing of a Notice of Allowance. This Statement is accompanied by the fees set forth in 37 C.F.R. § 1.17(p). The Commissioner is hereby authorized to charge any additional fees which may be required or to credit any overpayment to Account No. 11-1410.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 2-7-2011

By: John R. King
John R. King
Registration No. 34,362
Attorney of Record
Customer No. 20995
(949) 760-0404

| | | |
|--|----------------------|-------------------------|
| INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Application No. | 12/502064 |
| | Filing Date | 07-13-2009 |
| | First Named Inventor | Steinberg, John Douglas |
| | Art Unit | 2121 |
| <i>(Multiple sheets used when necessary)</i> | Examiner | Robertson, David |
| SHEET 1 OF 1 | Attorney Docket No. | EFACT.011A |

| U.S. PATENT DOCUMENTS | | | | | |
|-----------------------|----------|---|--------------------------------|-------------------------------|--|
| Examiner Initials | Cite No. | Document Number Number - Kind Code (if known) Example: 1,234,567 B1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear |
| | 1 | 4,136,732 | 01-1979 | Demaray et al. | |
| | 2 | 4,341,345 | 07-1982 | Hammer et al. | |
| | 3 | 4,655,279 | 04-1987 | Harmon | |
| | 4 | 5,244,146 | 09-1993 | Jefferson et al. | |
| | 5 | 5,270,952 | 12-1993 | Adams et al. | |
| | 6 | 5,314,004 | 05-1994 | Strand et al. | |
| | 7 | 5,462,225 | 10-1995 | Massara et al. | |
| | 8 | 5,544,036 | 08-1996 | Brown et al. | |
| | 9 | 5,555,927 | 09-1996 | Shah | |
| | 10 | 5,818,347 | 10-06-1998 | Dolan et al. | |
| | 11 | 6,260,765 | 07-2001 | Natale et al. | |
| | 12 | 7,644,869 | 01-2010 | Hoglund et al. | |
| | 13 | 2009/0099699 A1 | 04-16-2009 | Steinberg et al. | |
| | 14 | 2009/0125151 A1 | 05-14-2009 | Steinberg et al. | |

| FOREIGN PATENT DOCUMENTS | | | | | | |
|--------------------------|----------|--|--------------------------------|-------------------------------|--|----------------|
| Examiner Initials | Cite No. | Foreign Patent Document Country Code-Number-Kind Code Example: JP 1234567 A1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear | T ¹ |

| NON PATENT LITERATURE DOCUMENTS | | | |
|---------------------------------|----------|---|----------------|
| Examiner Initials | Cite No. | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T ¹ |
| | 15 | Honeywell Programmable Thermostat Owner's Guide, www.honeywell.com/yourhome | |
| | 16 | Honeywell, "W7600/W7620 Controller Reference Manual, HW0021207, October, 1992 | |

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| | |
|---|-----------------|
| Examiner Signature | Date Considered |
| * Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. | |

T¹ - Place a check mark in this area when an English language Translation is attached. Examiner, IPR2021-01052

Electronic Patent Application Fee Transmittal

| | |
|---|--|
| Application Number: | 12502064 |
| Filing Date: | 13-Jul-2009 |
| Title of Invention: | SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM |
| First Named Inventor/Applicant Name: | John Douglas Steinberg |
| Filer: | John R. King/Amy Durrant |
| Attorney Docket Number: | EFACT.011A |

Filed as Small Entity

Utility under 35 USC 111(a) Filing Fees

| Description | Fee Code | Quantity | Amount | Sub-Total in USD(\$) |
|--|----------|----------|-------------------------------------|----------------------|
| Basic Filing: | | | | |
| Pages: | | | | |
| Claims: | | | | |
| Miscellaneous-Filing: | | | | |
| Petition: | | | | |
| Patent-Appeals-and-Interference: | | | | |
| Post-Allowance-and-Post-Issuance: | | | | |
| Extension-of-Time: | | | | |
| Extension - 1 month with \$0 paid | 2251 | 1 | ecobee, IPR2021-01052 ⁶⁵ | 65 |

| Description | Fee Code | Quantity | Amount | Sub-Total in USD(\$) |
|---|----------|----------|--------|----------------------|
| Miscellaneous: | | | | |
| Submission- Information Disclosure Stmt | 1806 | 1 | 180 | 180 |
| Total in USD (\$) | | | | 245 |

Electronic Acknowledgement Receipt

| | |
|---|--|
| EFS ID: | 9386615 |
| Application Number: | 12502064 |
| International Application Number: | |
| Confirmation Number: | 5514 |
| Title of Invention: | SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM |
| First Named Inventor/Applicant Name: | John Douglas Steinberg |
| Customer Number: | 20995 |
| Filer: | John R. King/Quyen Lieu |
| Filer Authorized By: | John R. King |
| Attorney Docket Number: | EFACT.011A |
| Receipt Date: | 07-FEB-2011 |
| Filing Date: | 13-JUL-2009 |
| Time Stamp: | 17:43:00 |
| Application Type: | Utility under 35 USC 111(a) |

Payment information:

| | |
|--|-------------------------------|
| Submitted with Payment | yes |
| Payment Type | Credit Card |
| Payment was successfully received in RAM | \$245 |
| RAM confirmation Number | 4692 |
| Deposit Account | 111410 |
| Authorized User | KNOBBE MARTENS OLSON AND BEAR |

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

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Charge any Additional Fees required under 37 C.F.R. Section 1.17 (Patent application and reexamination processing fees)

ecobee, IPR2021-01052

| File Listing: | | | | | |
|--|--|-------------------------|---|-------------------------|-------------------------|
| Document Number | Document Description | File Name | File Size(Bytes)/ Message Digest | Multi Part /.zip | Pages (if appl.) |
| 1 | NPL Documents | EFACT-011A_REF15.pdf | 2407105 c402995c5687420cb7aa2ea16be395e01a06a807 | no | 64 |
| Warnings: | | | | | |
| Information: | | | | | |
| 2 | NPL Documents | EFACT-011A_REF16.pdf | 1761303 6fae0ef9e051604922c48d16244b9800e487c643 | no | 32 |
| Warnings: | | | | | |
| Information: | | | | | |
| 3 | | EFACT-011A_response.pdf | 443296 d2f06421cda757abdae76f823ba9d8ea6c584b26 | yes | 11 |
| | Multipart Description/PDF files in .zip description | | | | |
| | Document Description | | Start | End | |
| | Amendment/Req. Reconsideration-After Non-Final Reject | | 1 | 1 | |
| | Claims | | 2 | 5 | |
| | Applicant summary of interview with examiner | | 6 | 6 | |
| | Applicant Arguments/Remarks Made in an Amendment | | 7 | 11 | |
| Warnings: | | | | | |
| Information: | | | | | |
| 4 | | EFACT-011A_ids.pdf | 96116 6b562dab911bd4e4245593ccd6a232027037e1d0 | yes | 2 |
| | Multipart Description/PDF files in .zip description | | | | |
| | Document Description | | Start | End | |
| | Transmittal Letter | | 1 | 1 | |
| Information Disclosure Statement (IDS) Filed (SB/08) | | 2 | 2 | | |
| Warnings: | | | | | |
| Information: | | | | | |
| 5 | Fee Worksheet (PTO-875) | fee-info.pdf | 32553 72f4ab18f22b7e3bcadc00fc717dc113441ea43b | no | 2 |
| Warnings: | | | | | |

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| Information: | |
| Total Files Size (in bytes): | 4740373 |
| <p>This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.</p> <p><u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.</p> <p><u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.</p> <p><u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.</p> | |

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| | | | |
|---|---|----------------------------------|---------------------------------------|
| PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875 | Application or Docket Number 12/502,064 | Filing Date 07/13/2009 | <input type="checkbox"/> To be Mailed |
|---|---|----------------------------------|---------------------------------------|

| APPLICATION AS FILED – PART I | | | OTHER THAN SMALL ENTITY | | | |
|---|---|--------------|--|----------|-----------|----------|
| | (Column 1) | (Column 2) | SMALL ENTITY <input checked="" type="checkbox"/> | OR | | |
| FOR | NUMBER FILED | NUMBER EXTRA | RATE (\$) | FEE (\$) | RATE (\$) | FEE (\$) |
| <input type="checkbox"/> BASIC FEE <small>(37 CFR 1.16(a), (b), or (c))</small> | N/A | N/A | N/A | | N/A | |
| <input type="checkbox"/> SEARCH FEE <small>(37 CFR 1.16(k), (j), or (m))</small> | N/A | N/A | N/A | | N/A | |
| <input type="checkbox"/> EXAMINATION FEE <small>(37 CFR 1.16(o), (p), or (q))</small> | N/A | N/A | N/A | | N/A | |
| TOTAL CLAIMS <small>(37 CFR 1.16(j))</small> | minus 20 = | * | X \$ = | OR | X \$ = | |
| INDEPENDENT CLAIMS <small>(37 CFR 1.16(h))</small> | minus 3 = | * | X \$ = | | X \$ = | |
| <input type="checkbox"/> APPLICATION SIZE FEE <small>(37 CFR 1.16(s))</small> | If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s). | | | | | |
| <input type="checkbox"/> MULTIPLE DEPENDENT CLAIM PRESENT <small>(37 CFR 1.16(j))</small> | | | | | | |
| | | | TOTAL | | TOTAL | |

* If the difference in column 1 is less than zero, enter "0" in column 2.

| APPLICATION AS AMENDED – PART II | | | | | OTHER THAN SMALL ENTITY | | | |
|----------------------------------|---|----------------------------------|------------------------------------|---------------|-------------------------|---------------------|-----------|---------------------|
| | (Column 1) | (Column 2) | (Column 3) | | | | | |
| AMENDMENT | 02/07/2011 | CLAIMS REMAINING AFTER AMENDMENT | HIGHEST NUMBER PREVIOUSLY PAID FOR | PRESENT EXTRA | RATE (\$) | ADDITIONAL FEE (\$) | RATE (\$) | ADDITIONAL FEE (\$) |
| | Total <small>(37 CFR 1.16(i))</small> | * 20 | Minus ** 22 | = 0 | X \$26 = | 0 | OR | X \$ = |
| | Independent <small>(37 CFR 1.16(h))</small> | * 2 | Minus ***3 | = 0 | X \$110 = | 0 | OR | X \$ = |
| | <input type="checkbox"/> Application Size Fee <small>(37 CFR 1.16(s))</small> | | | | | | OR | |
| | <input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM <small>(37 CFR 1.16(j))</small> | | | | | | OR | |
| | | | | | TOTAL ADD'L FEE | 0 | OR | TOTAL ADD'L FEE |

| | | | | | | | | |
|-----------|---|----------------------------------|------------------------------------|---------------|-----------------|---------------------|-----------|---------------------|
| | (Column 1) | (Column 2) | (Column 3) | | | | | |
| AMENDMENT | | CLAIMS REMAINING AFTER AMENDMENT | HIGHEST NUMBER PREVIOUSLY PAID FOR | PRESENT EXTRA | RATE (\$) | ADDITIONAL FEE (\$) | RATE (\$) | ADDITIONAL FEE (\$) |
| | Total <small>(37 CFR 1.16(i))</small> | * | Minus ** | = | X \$ = | | OR | X \$ = |
| | Independent <small>(37 CFR 1.16(h))</small> | * | Minus *** | = | X \$ = | | OR | X \$ = |
| | <input type="checkbox"/> Application Size Fee <small>(37 CFR 1.16(s))</small> | | | | | | OR | |
| | <input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM <small>(37 CFR 1.16(j))</small> | | | | | | OR | |
| | | | | | TOTAL ADD'L FEE | | OR | TOTAL ADD'L FEE |

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
 ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".
 *** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".
 The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

Legal Instrument Examiner:
/DEBRA a. SAVOY/

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
12/502,064 07/13/2009 John Douglas Steinberg EFACT.011A 5514

20995 7590 12/23/2010
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER

ROBERTSON, DAVID

Table with 2 columns: ART UNIT, PAPER NUMBER

2121

Table with 2 columns: NOTIFICATION DATE, DELIVERY MODE

12/23/2010

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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efiling@kmob.com
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| | | | |
|--------------------------|--------------------------------------|---|--|
| Interview Summary | Application No. 12/502,064 | Applicant(s) STEINBERG, JOHN DOUGLAS | |
| | Examiner Dave Robertson | Art Unit 2121 | |

All participants (applicant, applicant's representative, PTO personnel):

- (1) Dave Robertson. (3) John Steinberg (Applicant/Inventor).
(2) Atty John King (Reg. No. 34,362). (4) _____.

Date of Interview: 17 December 2010.

Type: a) Telephonic b) Video Conference
c) Personal [copy given to: 1) applicant 2) applicant's representative]

Exhibit shown or demonstration conducted: d) Yes e) No.
If Yes, brief description: _____.

Claim(s) discussed: 1.

Identification of prior art discussed: Williams et al. (5,977,964).

Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

/Dave Robertson/
Examiner, Art Unit 2121

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Discussed general position of Inventor's company Ecofactor in the energy management software services sector, particularly for residential energy consumption management. Discussed Williams et al. as similar in principle to detecting and identifying a particular user by usage patterns of electronic and other appliances, applying user profile settings to set temperature and other environment parameters as potentially distinct from invention in that Williams does not seek to use non-traditional means for non-occupancy detection, i.e. to determine when a residence is un-occupied based on lack of determined usage pattern. As disclosed in ¶[0039] of the original specification, Applicant calls attention to detection of non-occupancy by determination of usage patterns and confirmation (or non-confirmation) of non-occupancy as have utility in determining whether to apply HVAC settings that are "intended to apply when the home is unoccupied..." by retrieving from a database "the user's specific preferences for how to handle the situation." Examiner suggested the phrases "intended to apply" and "handle the situation" suggest features discussed in interview of the invention using profile and historical data with a user confirmation to better determine whether non-occupancy is the present situation and non-occupancy energy savings management actions are intended be applied, but that may be insufficiently presently described to enable a claim incorporating a step of such determination as no algorithm for the determining of the situation is explicitly provided. Examiner indicated comparison to traditional means of non-occupancy detection (motion detectors, light switches) may read (broadly) on claim 1 as currently presented with no further distinction on "use" within "use of said networked electronic devices..." even if claiming such use as "indicates non-occupancy." No claim amendments were specifically discussed and no agreements reached presently on applicability of Williams et al. alone or in part or as to enablement of any feature or patentability over Williams or other prior art of record or in the art, however, Examiner indicated upon review of response and after further search on amended claims and aspects claimed and better understood as result of interview, further interview before a final response may be productive and that if desired Applicant on response should so indicate.



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

Table with 4 columns: APPLICATION NUMBER (12/502,064), FILING OR 371(C) DATE (07/13/2009), FIRST NAMED APPLICANT (John Douglas Steinberg), ATTY. DOCKET NO./TITLE (EFACT.011A)

CONFIRMATION NO. 5514

PUBLICATION NOTICE

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614



Title: SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM

Publication No. US-2010-0280667-A1

Publication Date: 11/04/2010

NOTICE OF PUBLICATION OF APPLICATION

The above-identified application will be electronically published as a patent application publication pursuant to 37 CFR 1.211, et seq. The patent application publication number and publication date are set forth above.

The publication may be accessed through the USPTO's publically available Searchable Databases via the Internet at www.uspto.gov. The direct link to access the publication is currently http://www.uspto.gov/patft/.

The publication process established by the Office does not provide for mailing a copy of the publication to applicant. A copy of the publication may be obtained from the Office upon payment of the appropriate fee set forth in 37 CFR 1.19(a)(1). Orders for copies of patent application publications are handled by the USPTO's Office of Public Records. The Office of Public Records can be reached by telephone at (703) 308-9726 or (800) 972-6382, by facsimile at (703) 305-8759, by mail addressed to the United States Patent and Trademark Office, Office of Public Records, Alexandria, VA 22313-1450 or via the Internet.

In addition, information on the status of the application, including the mailing date of Office actions and the dates of receipt of correspondence filed in the Office, may also be accessed via the Internet through the Patent Electronic Business Center at www.uspto.gov using the public side of the Patent Application Information and Retrieval (PAIR) system. The direct link to access this status information is currently http://pair.uspto.gov/. Prior to publication, such status information is confidential and may only be obtained by applicant using the private side of PAIR.

Further assistance in electronically accessing the publication, or about PAIR, is available by calling the Patent Electronic Business Center at 1-866-217-9197.

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
12/502,064 07/13/2009 John Douglas Steinberg EFACT.011A 5514

20995 7590 10/07/2010
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER

ROBERTSON, DAVID

Table with 2 columns: ART UNIT, PAPER NUMBER

2121

Table with 2 columns: NOTIFICATION DATE, DELIVERY MODE

10/07/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
efiling@kmob.com
eOAPilot@kmob.com

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 12/502,064 | Applicant(s) STEINBERG, JOHN DOUGLAS | |
| | Examiner Dave Robertson | Art Unit 2121 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 July 2010.
- 2a) This action is **FINAL**.
- 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7,9-18 and 20-22 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-7,9-18 and 20-22 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 - 1. Certified copies of the priority documents have been received.
 - 2. Certified copies of the priority documents have been received in Application No. _____.
 - 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date 12/18/09 7/7/10.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

1. This is a Non-final First Office Action on the Merits. Claims 1-7, 9-18, and 20-22 as amended by Preliminary Amendment received 7/07/2010 are examined herein.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7, 9-18, and 20-22 rejected under 35 U.S.C. 102(b) as being anticipated by Williams et al. (US Pat. No. 5,977,864).

Claim 1

Williams et al. teaches **a method for varying temperature setpoints for an HVAC system comprising:**

determining whether one or more networked electronic devices inside a structure are in use (column 5, lines 31-40: determined from user activating a system device, e.g. television, which is networked; see also Figures 1 and 7 (706));

determining whether said use of said networked electronic devices indicates occupancy of said structure (Figure 7 (706); column 5, lines 31-40; Figure 3; column 9, lines 17-59: noting that “occupancy” of a user is assumed if the user is present);

and adjusting the temperature setpoint on a thermostatic controller for an HVAC system for said structure based upon whether or not said structure is deemed to be occupied (see column 6, lines 50-67: storing a "wide range of configurable options" in the user profile database, including (column 6, lines 45-65), "general purpose control outputs which may configured to control...thermostat settings", such that thermostat settings may be set according to the "configurable options in accordance with the preferences of the identified user" (column 15, lines 46-63, esp. lines 57-59) when detected by the "detection module" (i.e. when the structure containing the system device, e.g. the television, is "occupied"))).

Claims 2-4 and 6

Williams et al. teaches **the method of Claim 1 in which said networked electronic device is a television** (Figure 8 "TELEVISION"); ... **a personal computer** (Figure 8 "COMPUTER"); ... **connected to the Internet** (Figure 8 "COMPUTER/INTERNET"); ... **a game console** (Figure 8 "COMPUTER-INTERNET-GAMES" (i.e. the computer connected to the Internet functioning as a "game console").

Claim 5

Williams et al. teaches **the method of Claim 1 in which programming being watched or listened to using said networked electronic device is used to determine which occupant of said structure is likely to be present** (column 5, lines 31-40; Figure 3; column 9, lines 17-59), **and the setpoint for said thermostatic controller is selected based upon the preferences of the occupant determined to be using said networked electronic device** (see column 6, lines 45-65), "general

Art Unit: 2121

purpose control outputs which may configured to control...thermostat settings”, such that thermostat settings may be set according to the “configurable options in accordance with the preferences of the identified user” (column 15, lines 46-63, esp. lines 57-59) when detected by the “detection module” (i.e. when the structure containing the system device, e.g. the television, is “occupied”).

Claims 7, 9, and 10

Williams et al. teaches **the method of Claim 1, in which said networked electronic device communicates with a remote server** (column 15, lines 16-22); ... **in which said adjusting of said temperature setpoints is initiated by a remote computer** (Figure column line); ... **which [are] varied automatically** (column 12, line 29-35: i.e. each time a new user is (automatically) detected)).

Claim 11

Williams et al. teaches **the method of Claim 1 in which an occupant is prompted to confirm occupancy prior to the adjusting of said temperature setpoint** (column 10, lines 26-41).

Claims 12-22 recite *systems* substantially for performing the methods of claims 1-7 and 9-11, and are similarly rejected for reasons given above, for the respective claim and claim elements, and further that Williams et al. teaches a *system* (Figure 7).

Conclusion

4. The prior art made of record and listed on the attached PTO Form 892 but not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 2121

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Robertson whose telephone number is (571)272-8220. The examiner can normally be reached on 9 am to 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on (571) 272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dave Robertson/
Examiner, Art Unit 2121

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|-----------------------------------|---------------------------------------|--|-------------|
| Notice of References Cited | Application/Control No. 12/502,064 | Applicant(s)/Patent Under Reexamination STEINBERG, JOHN DOUGLAS | |
| | Examiner Dave Robertson | Art Unit 2121 | Page 1 of 2 |

U.S. PATENT DOCUMENTS

| * | | Document Number Country Code-Number-Kind Code | Date MM-YYYY | Name | Classification |
|---|---|--|-----------------|--------------------|----------------|
| * | A | US-5,682,949 A | 11-1997 | Ratcliffe et al. | 165/209 |
| * | B | US-5,977,964 A | 11-1999 | Williams et al. | 715/721 |
| * | C | US-6,912,429 B1 | 06-2005 | Bilger, Brent | 700/19 |
| * | D | US-2006/0045105 A1 | 03-2006 | Dobosz et al. | 370/401 |
| * | E | US-7,061,393 B2 | 06-2006 | Buckingham et al. | 340/693.3 |
| * | F | US- H,002,176 H | 12-2006 | Meyer et al. | 236/51 |
| * | G | US-2007/0146126 A1 | 06-2007 | Wang, Ling | 340/517 |
| * | H | US-7,242,988 B1 | 07-2007 | Hoffberg et al. | 700/28 |
| * | I | US-7,260,823 B2 | 08-2007 | Schlack et al. | 725/9 |
| * | J | US-2008/0281472 A1 | 11-2008 | Podgorny et al. | 700/276 |
| * | K | US-7,483,964 B1 | 01-2009 | Jackson et al. | 709/221 |
| * | L | US-2009/0052859 A1 | 02-2009 | Greenberger et al. | 386/46 |
| * | M | US-2010/0162285 A1 | 06-2010 | Cohen et al. | 725/12 |

FOREIGN PATENT DOCUMENTS

| * | | Document Number Country Code-Number-Kind Code | Date MM-YYYY | Country | Name | Classification |
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NON-PATENT DOCUMENTS

| * | | Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages) |
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| | W | |
| | X | |

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

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| Notice of References Cited | Application/Control No. 12/502,064 | Applicant(s)/Patent Under Reexamination STEINBERG, JOHN DOUGLAS | |
| | Examiner Dave Robertson | Art Unit 2121 | Page 2 of 2 |

U.S. PATENT DOCUMENTS

| * | Document Number Country Code-Number-Kind Code | Date MM-YYYY | Name | Classification |
|---|--|-----------------|------------|----------------|
| * | A US-2010/0156608 A1 | 06-2010 | BAE et al. | 340/10.5 |
| | B US- | | | |
| | C US- | | | |
| | D US- | | | |
| | E US- | | | |
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FOREIGN PATENT DOCUMENTS

| * | Document Number Country Code-Number-Kind Code | Date MM-YYYY | Country | Name | Classification |
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NON-PATENT DOCUMENTS

| * | Document Number Country Code-Number-Kind Code | Date MM-YYYY | Country | Name | Classification |
|---|--|---|---------|------|----------------|
| | | Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages) | | | |
| | U | | | | |
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*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

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|--|----------------------|--------------------------------|
| INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Application No. | 12/502064 |
| | Filing Date | 07-13-2009 |
| | First Named Inventor | Steinberg, John Douglas |
| | Art Unit | 3744 |
| <i>(Multiple sheets used when necessary)</i> | | Examiner |
| SHEET 1 OF 1 | | Attorney Docket No. EFACT.011A |

| U.S. PATENT DOCUMENTS | | | | | |
|-----------------------|----------|--|--------------------------------|-------------------------------|--|
| Examiner Initials | Cite No. | Document Number <i>Number - Kind Code (if known)</i> Example: 1,234,567 B1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear |
| | 1 | 2009/0099699 A1 | 04-16-2009 | Steinberg et al. | |
| | 2 | 2009/0125151 A1 | 05-14-2009 | Steinberg et al. | |

| FOREIGN PATENT DOCUMENTS | | | | | | |
|--------------------------|----------|---|--------------------------------|-------------------------------|--|----------------|
| Examiner Initials | Cite No. | Foreign Patent Document <i>Country Code-Number-Kind Code</i> Example: JP 1234567 A1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear | T ¹ |
| | | | | | | |

| NON PATENT LITERATURE DOCUMENTS | | | |
|---------------------------------|----------|---|----------------|
| Examiner Initials | Cite No. | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T ¹ |
| | 3 | Honeywell Programmable Thermostat Owner's Guide, www.honeywell.com/yourhome | |

9298210
070210

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /DCR/

| | | | |
|--------------------|-------------------------------|-----------------|------------|
| Examiner Signature | /Dave Robertson/ (09/28/2010) | Date Considered | 09/28/2010 |
|--------------------|-------------------------------|-----------------|------------|

***Examiner:** Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

T¹ - Place a check mark in this area when an English language Translation is attached. Ex. 1008, Page 189 of 282

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|--|----------------------|-------------------------|
| INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Application No. | 12/502064 |
| | Filing Date | 07-13-2009 |
| | First Named Inventor | Steinberg, John Douglas |
| | Art Unit | 3744 |
| (Multiple sheets used when necessary) | Examiner | |
| SHEET 1 OF 4 | Attorney Docket No. | JSTEIN.011A |

| U.S. PATENT DOCUMENTS | | | | | |
|-----------------------|----------|---|--------------------------------|-------------------------------|--|
| Examiner Initials | Cite No. | Document Number Number - Kind Code (if known) Example: 1,234,567 B1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear |
| | 1 | 4,403,644 | 09-13-1983 | Hebert, Raymond T. | |
| | 2 | 4,674,027 | 06-16-1987 | Thomas J. Beckey | |
| | 3 | 5,572,438 | 11-05-1996 | Ehlers, et al. | |
| | 4 | 5,717,609 | 02-10-1998 | Packa, et al. | |
| | 5 | 6,145,751 | 11-14-2000 | Ahmed | |
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| Examiner Signature | Date Considered |
|--------------------|-----------------|

***Examiner:** Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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|--|----------------------|-------------------------|
| INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Application No. | 12/502064 |
| | Filing Date | 07-13-2009 |
| | First Named Inventor | Steinberg, John Douglas |
| | Art Unit | 3744 |
| (Multiple sheets used when necessary) | Examiner | |
| SHEET 2 OF 4 | Attorney Docket No. | JSTEIN.011A |

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| Examiner Initials | Cite No. | Document Number Number - Kind Code (if known) Example: 1,234,567 B1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear |
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| Examiner Signature | Date Considered |
|--------------------|-----------------|

***Examiner:** Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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| INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Application No. | 12/502064 |
| | Filing Date | 07-13-2009 |
| | First Named Inventor | Steinberg, John Douglas |
| | Art Unit | 3744 |
| (Multiple sheets used when necessary) | Examiner | |
| SHEET 3 OF 4 | Attorney Docket No. | JSTEIN.011A |

| U.S. PATENT DOCUMENTS | | | | | |
|-----------------------|----------|---|--------------------------------|-------------------------------|--|
| Examiner Initials | Cite No. | Document Number Number - Kind Code (if known) Example: 1,234,567 B1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear |
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|--------------------------|----------|--|--------------------------------|-------------------------------|--|----------------|
| Examiner Initials | Cite No. | Foreign Patent Document Country Code-Number-Kind Code Example: JP 1234567 A1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear | T ¹ |

| NON PATENT LITERATURE DOCUMENTS | | | |
|---------------------------------|----------|---|----------------|
| Examiner Initials | Cite No. | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T ¹ |
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| Examiner Signature | Date Considered |
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***Examiner:** Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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| INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Application No. | 12/502064 |
| | Filing Date | 07-13-2009 |
| | First Named Inventor | Steinberg, John Douglas |
| | Art Unit | 3744 |
| <i>(Multiple sheets used when necessary)</i> | Examiner | |
| SHEET 4 OF 4 | Attorney Docket No. | JSTEIN.011A |

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|---------------------------------|-------------|---|----------------|
| Examiner Initials | Cite No. | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T ¹ |
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| Examiner Signature | /Dave Robertson/ (09/28/2010) | Date Considered | 09/28/2010 |
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T¹ - Place a check mark in this area when an English language translation is attached. **ALL REFERENCES CONSIDERED EXCEPT WHERE SHOWN OTHERWISE. IP# 2021-01082**



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CONFIRMATION NO. 5514

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|--|---|-------------------------------|---|--|--------------------------------|
| SERIAL NUMBER 12/502,064 | FILING or 371(c) DATE 07/13/2009 RULE | CLASS 700 | GROUP ART UNIT 2121 | ATTORNEY DOCKET NO. EFACT.011A | |
| APPLICANTS John Douglas Steinberg, Millbrae, CA; ** CONTINUING DATA ***** This appln claims benefit of 61/134,714 07/14/2008 ** FOREIGN APPLICATIONS ***** ** IF REQUIRED, FOREIGN FILING LICENSE GRANTED ** ** SMALL ENTITY ** 07/22/2009 | | | | | |
| Foreign Priority claimed <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 35 USC 119(a-d) conditions met <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Verified and Acknowledged <u>/DAVE ROBERTSON/</u> Examiner's Signature | <input type="checkbox"/> Met after Allowance Initials | STATE OR COUNTRY CA | SHEETS DRAWINGS 8 | TOTAL CLAIMS 22 | INDEPENDENT CLAIMS 2 |
| ADDRESS KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614 UNITED STATES | | | | | |
| TITLE SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM | | | | | |
| FILING FEE RECEIVED 879 | FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following: | | <input type="checkbox"/> All Fees <input type="checkbox"/> 1.16 Fees (Filing) <input type="checkbox"/> 1.17 Fees (Processing Ext. of time) <input type="checkbox"/> 1.18 Fees (Issue) <input type="checkbox"/> Other _____ <input type="checkbox"/> Credit | | |

EAST Search History

EAST Search History (Prior Art)

| Ref # | Hits | Search Query | DBs | Default Operator | Plurals | Time Stamp |
|-------|------|---|--------------------------------|------------------|---------|---------------------|
| L1 | 55 | (US-20090125151-\$ or US-20090099699-\$ or US-20100123560-\$ or US-20100019051-\$ or US-20090284344-\$ or US-20090140838-\$ or US-20080281472-\$ or US-20070146126-\$ or US-20070040672-\$ or US-20070008149-\$ or US-20060267780-\$ or US-20040155781-\$ or US-20100156608-\$ or US-20100138007-\$ or US-20090055403-\$ or US-20060283938-\$ or US-20040178889-\$ or US-20040231003-\$). did. or (US-6912429-\$ or US-6851621-\$ or US- 5682949-\$ or US- 6145751-\$ or US- H002176-\$ or US- 6549130-\$ or US- 6542076-\$ or US- 6351693-\$ or US- 6549816-\$ or US- 6671586-\$ or US- 6643567-\$ or US- 6633823-\$ or US- 6628997-\$ or US- 6622926-\$ or US- 6622925-\$ or US- 6622097-\$ or US- 6619555-\$ or US- 6598056-\$ or US- 6595430-\$ or US- 6594825-\$ or US- 6574537-\$ or US- 6536675-\$ or US- 6480803-\$ or US- 6437692-\$ or US- 6400996-\$ or US- 6178362-\$).did. or (US- 5717609-\$ or US- 5572438-\$ or US- 4674027-\$ or US- | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2010/09/29 09:34 |

| | | | | | | |
|-----|------|---|--------------------------------|-----|----|---------------------|
| | | 4403644-\$ or US-7354005-\$ or US-7392042-\$ or US-7248170-\$ or US-7027617-\$ or US-6633223-\$ or US-7061393-\$).did. or (WO-2009069998-\$).did. | | | | |
| L8 | 0 | (11/183602).APP. | USPAT; USOCR | ADJ | ON | 2010/09/29 09:57 |
| L11 | 1138 | ((television or TV! or video) with (channel or media or program\$4 or content)) same ((unoccup\$3 or occupied or occupancy or presence)) same (((who! or person or user or individual or viewer or occupant or identity) with (identi\$6 or recogni\$7 or determin\$ or detect \$)) | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2010/09/29 10:00 |
| L13 | 631 | ((television or TV! or video) with (channel or media or program\$4 or content)) same ((unoccup\$3 or occupied or occupancy or presence) with (detect\$ or determin\$ or recogniz\$)) same (((who! or person or user or individual or viewer or occupant or identity) with (identi\$6 or recogni\$7 or determin\$ or detect \$)) | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2010/09/29 10:04 |
| L14 | 96 | (temperature or thermostat or environment\$2 or HVAC! or heating or cooling) with (control \$4 or setting or set \$1point) and I13 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2010/09/29 10:09 |
| L15 | 2 | "5977964".pn. | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2010/09/29 10:41 |

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| L17 | 2 | ((((television or TV! or video) (channel or media or program\$4 or content)) ((unoccup\$3 or occupied or occupancy or presence) (detect\$ or determin\$ or recogniz\$)) ((who! or person or user or individual or viewer or occupant or identity) (identi\$6 or recogni\$7 or determin\$ or detect\$)))) and I15 | US-PGPUB; USPAT; DERWENT | OR | ON | 2010/09/29 10:46 |
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| L19 | 214 | ("5977964").URPN. | USPAT | ADJ | ON | 2010/09/29 10:50 |
| L20 | 214 | ((((television or TV! or video) (channel or media or program\$4 or content)) ((unoccup\$3 or occupied or occupancy or presence) (detect\$ or determin\$ or recogniz\$)) ((who! or person or user or individual or viewer or occupant or identity) (identi\$6 or recogni\$7 or determin\$ or detect\$)))) and I19 | US-PGPUB; USPAT; DERWENT | OR | ON | 2010/09/29 10:50 |
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| L23 | 9 | (temperature or thermostat or HVAC! or heating or cooling) with (control\$4 or setting or set\$1point) and I20 | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2010/09/29 10:55 |


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| S5 | 0 | "61134714".rlan. or ("61".src. and "134714".ap.) | US-PGPUB; USPAT; USOCR; DERWENT | ADJ | ON | 2010/09/23 21:08 |
| S6 | 53 | ((JOHN) near2 (STEINBERG)).INV. | US-PGPUB; USPAT | ADJ | ON | 2010/09/23 21:08 |
| S7 | 57 | ("20090099699" "20090125151" "4403644" "4674027" "5572438" "5717609" "6145751" "6178362" "6351693" "6400996" "6437692" "6480803" "6536675" "6542076" "6549130" "6574537" "6594825" "6595430" "6598056" "6619555" "6622097" "6622925" "6622926" "6628997" "6633823" "6643567" "6671586").PN. | US-PGPUB; USPAT; USOCR; DERWENT | ADJ | ON | 2010/09/28 20:45 |
| S8 | 387 | 700/276.cor. | US-PGPUB; USPAT; DERWENT | ADJ | ON | 2010/09/28 21:03 |
| S9 | 30 | ("236"/\$ "700"/\$ "340"/ \$).ccls. | US-PGPUB; USPAT; DERWENT | AND | ON | 2010/09/28 21:05 |
| S10 | 208264 | ("236"/\$ "700"/\$ "340"/ \$).ccls. | US-PGPUB; USPAT; DERWENT | OR | ON | 2010/09/28 21:05 |
| S11 | 12 | (unoccup\$3 or occup \$3 or occupancy) and S9 | US-PGPUB; USPAT; DERWENT | OR | ON | 2010/09/28 21:06 |
| S13 | 131640 | (unoccup\$3 or occup \$3 or occupancy or presence) with (who! or person or user! or identi\$2) | US-PGPUB; USPAT; DERWENT | OR | ON | 2010/09/28 21:09 |
| S15 | 4 | S13 and S11 | US-PGPUB; USPAT; DERWENT | OR | ON | 2010/09/28 21:09 |

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| S17 | 6 | S13 and S7 | US-PGPUB; USPAT; DERWENT | OR | ON | 2010/09/28 21:09 |
| S18 | 11 | S15 or S16 or S17 | US-PGPUB; USPAT; DERWENT | OR | ON | 2010/09/28 21:09 |
| S19 | 8161 | (unoccup\$3 or occup \$3 or occupancy or presence) same ((who! or person or user! or identity) with (identify or recognize)) | US-PGPUB; USPAT; DERWENT | OR | ON | 2010/09/28 21:11 |
| S20 | 716 | S19 and S10 | US-PGPUB; USPAT; DERWENT | OR | ON | 2010/09/28 21:11 |
| S21 | 1 | S19 and S9 | US-PGPUB; USPAT; DERWENT | OR | ON | 2010/09/28 21:11 |
| S22 | 1 | S19 and S7 | US-PGPUB; USPAT; DERWENT | OR | ON | 2010/09/28 21:12 |
| S23 | 12 | ("6145751").URPN. | USPAT | ADJ | ON | 2010/09/28 21:13 |
| S24 | 0 | ("H002176").URPN. | USPAT | ADJ | ON | 2010/09/28 21:15 |
| S25 | 27 | ("20090099699" "20090125151" "4403644" "4674027" "5572438" "5717609" "6145751" "6178362" "6351693" "6400996" "6437692" "6480803" "6536675" "6542076" "6549130" "6574537" "6594825" "6595430" "6598056" "6619555" "6622097" "6622925" "6622926" "6628997" "6633823" "6643567" "6671586").PN. | US-PGPUB; USPAT; USOCR | ADJ | ON | 2010/09/28 21:18 |

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| S26 | 953 | ((unoccup\$3 or occup\$3 or occupancy or presence) same ((who! or person or user! or identity) with (identify or recognize))).ti,ab,clm. | US-PGPUB; USPAT; DERWENT | OR | ON | 2010/09/28 21:22 |
| S27 | 95 | S10 and S26 | US-PGPUB; USPAT; DERWENT | OR | ON | 2010/09/28 21:22 |
| S30 | 4721 | ((unoccup\$3 or occup\$3 or occupancy or presence) same ((who! or person or user! or identity or individual) with (identif\$5 or recogni\$7))).ti,ab,clm. | US-PGPUB; USPAT; DERWENT | OR | ON | 2010/09/28 21:33 |
| S31 | 334 | S30 and S10 | US-PGPUB; USPAT; DERWENT | OR | ON | 2010/09/28 21:34 |
| S32 | 2362 | ((unoccup\$3 or occup\$3 or occupancy or presence) same ((who! or person or user! or identity or individual) near3 (identif\$5 or recogni\$7))).ti,ab,clm. | US-PGPUB; USPAT; DERWENT | OR | ON | 2010/09/28 21:34 |
| S33 | 174 | S32 and S10 | US-PGPUB; USPAT; DERWENT | OR | ON | 2010/09/28 21:34 |
| S37 | 1 | (television near5 (in\$1-use or usage or turned adj on)) and S30 | US-PGPUB; USPAT; DERWENT | AND | ON | 2010/09/28 21:43 |
| S38 | 8 | ((video or television or TV! or DVD!) near5 (in\$1-use or usage or turned adj on)) and S30 | US-PGPUB; USPAT; DERWENT | AND | ON | 2010/09/28 21:43 |
| S39 | 1 | (10/672712).APP. | USPAT; USOCR | ADJ | ON | 2010/09/28 21:45 |

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Steinberg energy use monitor tv viewing habits.wsp

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|---|--|---|
| Index of Claims  | Application/Control No. 12502064 | Applicant(s)/Patent Under Reexamination STEINBERG, JOHN DOUGLAS |
| | Examiner Dave Robertson | Art Unit 2121 |

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| ✓ | Rejected |
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| - | Cancelled |
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|---|---------------------|
| N | Non-Elected |
| I | Interference |

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| A | Appeal |
| O | Objected |

Claims renumbered in the same order as presented by applicant
 CPA
 T.D.
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| CLAIM | | DATE | | | | | | | | | |
|-------|----------|------------|--|--|--|--|--|--|--|--|--|
| Final | Original | 09/28/2010 | | | | | | | | | |
| | 1 | ✓ | | | | | | | | | |
| | 2 | ✓ | | | | | | | | | |
| | 3 | ✓ | | | | | | | | | |
| | 4 | ✓ | | | | | | | | | |
| | 5 | ✓ | | | | | | | | | |
| | 6 | ✓ | | | | | | | | | |
| | 7 | ✓ | | | | | | | | | |
| | 8 | - | | | | | | | | | |
| | 9 | ✓ | | | | | | | | | |
| | 10 | ✓ | | | | | | | | | |
| | 11 | ✓ | | | | | | | | | |
| | 12 | ✓ | | | | | | | | | |
| | 13 | ✓ | | | | | | | | | |
| | 14 | ✓ | | | | | | | | | |
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| | 16 | ✓ | | | | | | | | | |
| | 17 | ✓ | | | | | | | | | |
| | 18 | ✓ | | | | | | | | | |
| | 19 | - | | | | | | | | | |
| | 20 | ✓ | | | | | | | | | |
| | 21 | ✓ | | | | | | | | | |
| | 22 | ✓ | | | | | | | | | |

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|--|--|---|
| Search Notes  | Application/Control No. 12502064 | Applicant(s)/Patent Under Reexamination STEINBERG, JOHN DOUGLAS |
| | Examiner Dave Robertson | Art Unit 2121 |

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|-----------------|-----------------|-------------|-----------------|
| SEARCHED | | | |
| Class | Subclass | Date | Examiner |
| 700 | 276 | 9/28/2010 | dcr |

| | | |
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| SEARCH NOTES | | |
| Search Notes | Date | Examiner |
| EAST (USPAT, PgPUB, Derwent - see complete search history in application file) | 9/29/2010 | dcr |
| "236"/\$ "700"/\$ "340"/\$ (text-limited and cross-classification search - see search history) | 9/28/2010 | dcr |

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|----------------------------|-----------------|-------------|-----------------|
| INTERFERENCE SEARCH | | | |
| Class | Subclass | Date | Examiner |
| | | | |

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Examiner.Art Unit 2121



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Table with 4 columns: APPLICATION NUMBER (12/502,064), FILING OR 371(C) DATE (07/13/2009), FIRST NAMED APPLICANT (John Douglas Steinberg), ATTY. DOCKET NO./TITLE (EFACT.011A)

CONFIRMATION NO. 5514

NONPUBLICATION RESCISSION LETTER



20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 07/26/2010

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 11/04/2010.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"1 then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

1 Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/tjkoontz/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|--------------------|-----------------------|------------------------|------------------------|
| 12/502,064 | 07/13/2009 | John Douglas Steinberg | EFACT.011A |

CONFIRMATION NO. 5514

**EARLY PUBLICATION REQUEST
LETTER**

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614



Date Mailed: 07/26/2010

NOTICE REGARDING EARLY PUBLICATION REQUEST

The request for voluntary publication, amended publication, early publication, redacted publication, republication, corrected publication or revised publication has been received for this application. The request, including payment of any necessary fee(s), is in compliance with 37 CFR 1.215, 1.217, 1.219 or 1.221.

The projected publication date is 11/04/2010.

/tjkoontz/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|------------------------|----------------------------|------------------|
| 12/502,064 | 07/13/2009 | John Douglas Steinberg | EFACT.011A | 5514 |
| 20995 7590 07/19/2010 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614 | | | EXAMINER DECADY, ALBERT | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2121 | |
| | | | NOTIFICATION DATE | DELIVERY MODE |
| | | | 07/19/2010 | ELECTRONIC |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

- jcartee@kmob.com
- efiling@kmob.com
- eOAPilot@kmob.com



KNOBBE MARTENS OLSON & BEAR LLP
2040 Main Street
Fourteenth Floor
Irvine CA 92614

In re Application of :
STEINBERG, John : DECISION ON PETITION
Application No. 12/502,064 : TO MAKE SPECIAL UNDER
Filed: July 13, 2009 : THE GREEN TECHNOLOGY
Attorney Docket No. EFACT.011A : PILOT PROGRAM

This is a decision on the renewed petition under 37 CFR 1.102, filed July 7, 2010, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth in 74 Federal Register Notice 64666 (December 8, 2009) and amended by 75 Federal Register Notice 28554 (May 21, 2010).

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 64666 must be directed to a nonprovisional application filed under 35 USC 111(a) or be a national stage entry under 35 USC 371, exclusive of any reissue applications and be filed prior to the date of the notice, December 8, 2009.

In order to qualify for special status, the following requirements must be met. 1) The application must have no more than 3 independent claims and no more than 20 total claims. 2) The application must not contain any multiple dependent claims. 3) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 4) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 5) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 6) The petition to make special must be filed electronically. 7) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent

Application Information Retrieval (PAIR) system. 8) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The instant petition complies with items 1 – 8 above. Accordingly, the above-identified application has been accorded “special” status.

The application is being forwarded to the Technology Center Art Unit 2121 for action on the merits commensurate with this decision.

Telephone inquires concerning this decision should be directed to Eddie C. Lee at 571-272-1732.

/Eddie C. Lee/

Eddie C. Lee
Quality Assurance Specialist
Technology Center 2100

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : John Douglas Steinberg
App. No : 12/502,064
Filed : July 13, 2009
For : SYSTEM AND METHOD FOR
USING A NETWORKED
ELECTRONIC DEVICE AS AN
OCCUPANCY SENSOR FOR AN
ENERGY MANAGEMENT SYSTEM
Art Unit : 3744
Conf. No. : 5514

PRELIMINARY AMENDMENT**Mail Stop Amendment**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Prior to the examination of the above-captioned application, please amend the application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

AMENDMENTS TO THE CLAIMS

Please cancel Claims 8 and 19 without prejudice or disclaimer.

1. (Original) A method for varying temperature setpoints for an HVAC system comprising:

determining whether one or more networked electronic devices inside a structure are in use;

determining whether said use of said networked electronic devices indicates occupancy of said structure; and

adjusting the temperature setpoint on a thermostatic controller for an HVAC system for said structure based upon whether or not said structure is deemed to be occupied.

2. (Original) The method of Claim 1 in which said networked electronic device is a television.

3. (Original) The method of Claim 1 in which said networked electronic device is a personal computer.

4. (Original) The method of Claim 1 in which said networked electronic device is connected to the Internet.

5. (Original) The method of Claim 1 in which programming being watched or listened to using said networked electronic device is used to determine which occupant of said structure is likely to be present, and the setpoint for said thermostatic controller is selected based upon the preferences of the occupant determined to be using said networked electronic device.

6. (Original) The method of Claim 1 in which said networked electronic device is a game console.

7. (Original) The method of Claim 1 in which said networked electronic device communicates with a remote server.

8. (Canceled)
9. (Original) The method of Claim 1 in which said adjusting of said temperature setpoints is initiated by a remote computer.
10. (Original) The method of Claim 1 in which said temperature setpoints are varied automatically.
11. (Original) The method of Claim 1 in which an occupant is prompted to confirm occupancy prior to the adjusting of said temperature setpoint.
12. (Original) A system for altering the setpoint on a thermostat for space conditioning of a structure comprising:
 - at least one thermostat having at least one temperature setting associated with the presence of one or more occupants in a structure, and at least one temperature setting associated with the absence of occupants in said structure;
 - one or more electronic devices having at least a user interface;
 - wherein said electronic devices and said thermostat are connected to a network; and
 - wherein said setpoint on said thermostat is adjusted between said temperature setting associated with the presence of one or more occupants in said structure and said temperature setting associated with the absence of occupants in said structure based upon the use of said user interface for said electronic device.
13. (Original) The system of Claim 12 in which said electronic device is a television.
14. (Original) The system of Claim 12 in which said electronic device is a personal computer.
15. (Original) The system of Claim 12 in which said electronic device is connected to the Internet.

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Filing Date: July 13, 2009

16. (Original) The system of Claim 12 in which the programming being watched or listened to using said networked electronic device is used to determine which occupant of said structure is likely to be using said networked electronic device, and the setpoint for said thermostatic controller is selected based upon the preferences of the occupant determined to be using said networked electronic device.

17. (Original) The system of Claim 12 in which said networked electronic device is a game console.

18. (Original) The system of Claim 12 in which said networked electronic device communicates with a remote server.

19. (Canceled)

20. (Original) The system of Claim 12 in which variation of temperature setpoints is initiated by a remote computer.

21. (Original) The system of Claim 12 in which said temperature setpoints are varied automatically.

22. (Original) The system of Claim 12 in which an occupant is prompted to confirm occupancy prior to adjustment of said temperature setpoint.

Application No.: 12/502,064
Filing Date: July 13, 2009

REMARKS

Claims 1-22 were previously pending. In this preliminary amendment, Applicant has canceled Claims 8 and 19. Accordingly, a total of 20 Claims, Claims 1-7, 9-18, and 20-22 are currently pending.

The Applicant believes that this Preliminary Amendment places the application in conformance with the requirements for the Green Technology Pilot Program listed in PTO/SB/420, filed herewith, and 74 Fed. Reg. 64,666 (Dec. 8, 2009), as amended by 75 Fed. Reg. 28,544 (May 21, 2010).

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Submitted concurrently herewith is a Supplemental Information Disclosure Statement citing three new references. Applicant respectfully requests the Examiner to consider the pending claims in connection with these references in order to make the references of record.

OTHER APPLICATIONS OF ASSIGNEE

Applicant wishes to draw the Examiner's attention to the following applications owned by of the present application's assignee:

| Inventors | Appl. No. | Filing Date | Attorney Docket No. | Title |
|------------------|---------------------------|--------------------|----------------------------|--|
| Steinberg et al. | 60/963,183 Now Expired | 08/03/07 | EFACT.003PR | System And Method For Using A Network Of Thermostats As Tool To Verify Peak Demand Reduction |
| Steinberg et al. | 60/944,011 Now Expired | 09/17/07 | EFACT.005PR | System And Method For Calculating The Thermal Mass Of A Building |
| Steinberg et al. | 12/183,990 | 07/31/08 | EFACT.003A | System And Method For Using A Network Of Thermostats As Tool To Verify Peak Demand Reduction |
| Steinberg et al. | 12/183,949 | 07/31/08 | EFACT.004A | System And Method For Using A Network Of Thermostats As Tool To Verify Peak Demand Reduction |

Application No.: 12/502,064
Filing Date: July 13, 2009

| | | | | |
|------------------|---------------------------|----------|-------------|--|
| Steinberg et al. | 12/211,733 | 09/16/08 | EFACT.005A | System And Method For Calculating The Thermal Mass Of A Building |
| Steinberg et al. | 12/211,690 | 09/16/08 | EFACT.006A | System And Method For Evaluating Changes In The Efficiency Of An Hvac System |
| Steinberg | 61/215,816 Now Expired | 05/11/09 | EFACT.008PR | System, Method And Apparatus For Dynamically Variable Compressor Delay In Thermostat To Reduce Energy Consumption |
| Steinberg et al. | 61/215,657 Now Expired | 05/04/10 | EFACT.009PR | System, Method And Apparatus For Just-In-Time Conditioning Using A Thermostat |
| Steinberg et al. | 61/215,999 Now Expired | 05/12/09 | EFACT.007PR | System, Method And Apparatus For Identifying Manual Inputs To And Adaptive Programming Of A Thermostat |
| Cheung et al. | 12/498,142 | 07/06/09 | EFACT.010A | System And Method For Using Ramped Setpoint Temperature Variation With Networked Thermostats To Improve Efficiency |
| Steinberg et al. | 12/773,690 | 05/04/10 | EFACT.009A | System, Method And Apparatus For Just-In-Time Conditioning Using A Thermostat |
| Steinberg | 12/774,580 | 05/05/10 | EFACT.008A | System, Method And Apparatus For Dynamically Variable Compressor Delay In Thermostat To Reduce Energy Consumption |
| Steinberg et al. | 12/778,052 | 05/11/10 | EFACT.007A | System, Method And Apparatus For Identifying Manual Inputs To And Adaptive Programming Of A Thermostat |
| Steinberg | 12/788,246 | 05/26/10 | EFACT.012A | System And Method For Using A Mobile Electronic Device To Optimize An Energy Management System |

Applicant notes that cited references, office actions, responses and notices of allowance currently exist or will exist for the above-referenced matters. Applicant also understands that the Examiner has access to sophisticated online Patent Office computing systems that provide ready access to the full file histories of these matters

Application No.: 12/502,064
Filing Date: July 13, 2009

including, for example, specifications, drawings, pending claims, cited art, office actions, responses, declarations, and notices of allowance.

Rather than submit these file histories, Applicant respectfully requests that the Examiner continue to review these file histories online for past, current, and future information about these matters. Also, if the Examiner cannot readily access these file histories, the Applicant would be pleased to provide any portion of any of the file histories at any time upon specific Examiner request.

NO DISCLAIMERS OR DISAVOWALS

The Applicant reserves the right to pursue claims directed to all or part of the subject matter described in the instant application, including the subject matter of any claims amended, withdrawn, or canceled at any time during the prosecution of this application, and thus, unclaimed subject matter is not dedicated to the public.

Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution.

Accordingly, reviewers of this or any parent, child, or related prosecution history shall not infer that the Applicant has made any disclaimers or disavowals of any subject matter supported by the present Application.

CONCLUSION

The Examiner is cordially invited to contact the undersigned such that any remaining issues may be promptly resolved.

Application No.: 12/502,064
Filing Date: July 13, 2009

Also, please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 7-7-2010

By: John R. King
John R. King
Registration No. 34,362
Attorney of Record
Customer No. 20,995
(949) 760-0404

9297603:ad
070210

INFORMATION DISCLOSURE STATEMENT

| | | |
|-----------|---|--|
| Applicant | : | John Douglas Steinberg |
| App. No | : | 12/502,064 |
| Filed | : | July 13, 2009 |
| For | : | SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM |
| Examiner | : | Unknown |
| Art Unit | : | 3744 |
| Conf No. | : | 5514 |

Mail Stop Amendment
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Dear Sir:

Enclosed for filing in the above-identified application is a PTO/SB/08 Equivalent listing three (3) references, of which one (1) is enclosed/submitted.

This Information Disclosure Statement is being filed before the receipt of a first Office Action on the merits, and presumably no fee is required. If a first Office Action on the merits was mailed before the mailing date of this Statement, the Commissioner is authorized to charge the fee set forth in 37 C.F.R. § 1.17(p) to Deposit Account No. 11-1410.

Respectfully submitted,
 KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 7-7-2010

By: John R. King
 John R. King
 Registration No. 34,362
 Attorney of Record
 Customer No. 20995
 (949) 760-0404

| | | |
|--|----------------------|-------------------------|
| INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Application No. | 12/502064 |
| | Filing Date | 07-13-2009 |
| | First Named Inventor | Steinberg, John Douglas |
| | Art Unit | 3744 |
| <i>(Multiple sheets used when necessary)</i> | Examiner | |
| SHEET 1 OF 1 | Attorney Docket No. | EFACT.011A |

U.S. PATENT DOCUMENTS

| Examiner Initials | Cite No. | Document Number Number - Kind Code (if known) Example: 1,234,567 B1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear |
|-------------------|----------|---|--------------------------------|-------------------------------|--|
| | 1 | 2009/0099699 A1 | 04-16-2009 | Steinberg et al. | |
| | 2 | 2009/0125151 A1 | 05-14-2009 | Steinberg et al. | |

FOREIGN PATENT DOCUMENTS

| Examiner Initials | Cite No. | Foreign Patent Document Country Code-Number-Kind Code Example: JP 1234567 A1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear | T ¹ |
|-------------------|----------|--|--------------------------------|-------------------------------|--|----------------|
| | | | | | | |

NON PATENT LITERATURE DOCUMENTS

| Examiner Initials | Cite No. | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T ¹ |
|-------------------|----------|---|----------------|
| | 3 | Honeywell Programmable Thermostat Owner's Guide, www.honeywell.com/yourhome | |

9298210
070210

| | |
|---|-----------------|
| Examiner Signature | Date Considered |
| * Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. | |

T¹ - Place a check mark in this area when an English language Translation is attached, IPR2021-01052

Electronic Patent Application Fee Transmittal

| | |
|---|--|
| Application Number: | 12502064 |
| Filing Date: | 13-Jul-2009 |
| Title of Invention: | SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM |
| First Named Inventor/Applicant Name: | John Douglas Steinberg |
| Filer: | John R. King/Amy Durrant |
| Attorney Docket Number: | JSTEIN.011A |

Filed as Small Entity

Utility under 35 USC 111(a) Filing Fees

| Description | Fee Code | Quantity | Amount | Sub-Total in USD(\$) |
|--|----------|----------|--------|----------------------|
| Basic Filing: | | | | |
| Pages: | | | | |
| Claims: | | | | |
| Miscellaneous-Filing: | | | | |
| Publ. Fee- early, voluntary, or normal | 1504 | 1 | 300 | 300 |

Petition:

Patent-Appeals-and-Interference:

Post-Allowance-and-Post-Issuance:

Extension-of-Time:

| Description | Fee Code | Quantity | Amount | Sub-Total in USD(\$) |
|--------------------------|----------|----------|--------|----------------------|
| Miscellaneous: | | | | |
| Total in USD (\$) | | | | 300 |

Electronic Acknowledgement Receipt

| | |
|---|--|
| EFS ID: | 7969205 |
| Application Number: | 12502064 |
| International Application Number: | |
| Confirmation Number: | 5514 |
| Title of Invention: | SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM |
| First Named Inventor/Applicant Name: | John Douglas Steinberg |
| Customer Number: | 20995 |
| Filer: | John R. King/Chelsea Pearsall |
| Filer Authorized By: | John R. King |
| Attorney Docket Number: | JSTEIN.011A |
| Receipt Date: | 07-JUL-2010 |
| Filing Date: | 13-JUL-2009 |
| Time Stamp: | 17:45:58 |
| Application Type: | Utility under 35 USC 111(a) |

Payment information:

| | |
|--|-------------------------------|
| Submitted with Payment | yes |
| Payment Type | Credit Card |
| Payment was successfully received in RAM | \$300 |
| RAM confirmation Number | 4026 |
| Deposit Account | 111410 |
| Authorized User | KNOBBE MARTENS OLSON AND BEAR |

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

Charge any Additional Fees required under 37 C.F.R. Section 1.16 (National application filing, search, and examination fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.17 (Patent application and reexamination processing fees)

ecobee, IPR2021-01052

| File Listing: | | | | | |
|--|--|----------------------------|--|-------------------------|-------------------------|
| Document Number | Document Description | File Name | File Size(Bytes)/ Message Digest | Multi Part /.zip | Pages (if appl.) |
| 1 | Petition for Green Tech Pilot | EFACT-011A_petition.pdf | 79379 32ad242df808a143b8465bb9ceb7e64c7a2831e8 | no | 1 |
| Warnings: | | | | | |
| Information: | | | | | |
| 2 | Petition for Green Tech Pilot | EFACT-011A_statement.pdf | 102421 9d0fbb9339fa5172c064e8bd56cfadee0645ddb5 | no | 3 |
| Warnings: | | | | | |
| Information: | | | | | |
| 3 | | EFACT-011A_prelimamend.pdf | 277821 3c2f3a0121b542fab5d8d4e39b89c5b8e297db05 | yes | 8 |
| | Multipart Description/PDF files in .zip description | | | | |
| | Document Description | | Start | End | |
| | Preliminary Amendment | | 1 | 1 | |
| | Claims | | 2 | 4 | |
| Applicant Arguments/Remarks Made in an Amendment | | 5 | 8 | | |
| Warnings: | | | | | |
| Information: | | | | | |
| 4 | Rescind Nonpublication Request for Pre Grant Pub | EFACT-011A_rescission.pdf | 75531 d7a3b8eb459abb78489858476bfd9739c7498fc6 | no | 1 |
| Warnings: | | | | | |
| Information: | | | | | |
| 5 | | EFACT-011A_ids.pdf | 78492 ea58bcd7095d368beed0f4fa974a2281b9a8231b | yes | 2 |
| | Multipart Description/PDF files in .zip description | | | | |
| | Document Description | | Start | End | |
| | Transmittal Letter | | 1 | 1 | |
| Information Disclosure Statement (IDS) Filed (SB/08) | | 2 | 2 | | |
| Warnings: | | | | | |
| Information: | | | | | |

| | | | | | |
|---|---------------|---------------------|--|----|----|
| 6 | NPL Documents | EFACT-011A_ref1.pdf | 2407105 | no | 64 |
| | | | b44f4d5cacadce82dfcfd591df44e54d58bcd2f8 | | |

Warnings:

Information:

| | | | | | |
|---|-------------------------|--------------|---|----|---|
| 7 | Fee Worksheet (PTO-875) | fee-info.pdf | 30290 | no | 2 |
| | | | c096d77f27f28e35ba294da6a96cdd226df4b49 | | |

Warnings:

Information:

| | | | | | |
|-------------------------------------|--|--|---------|--|--|
| Total Files Size (in bytes): | | | 3051039 | | |
|-------------------------------------|--|--|---------|--|--|

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : John Douglas Steinberg
App. No : 12/502,064
Filed : July 13, 2009
For : SYSTEM AND METHOD FOR
USING A NETWORKED
ELECTRONIC DEVICE AS AN
OCCUPANCY SENSOR FOR AN
ENERGY MANAGEMENT SYSTEM
Art Unit : 3744
Conf. No. : 5514

STATEMENT OF SPECIAL STATUS FOR THE ELIGIBILITY REQUIREMENT
UNDER THE GREEN TECHNOLOGY PILOT PROGRAM

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Statement of Special Status of the Eligibility Requirement is filed pursuant to the requirements listed in PTO/SB/420, filed herewith, and pursuant to the requirements of 74 Fed. Reg. 64,666 (Dec. 8, 2009), as amended by 75 Fed. Reg. 28,554 (May 21, 2010).

Material Contribution To Energy Conservation

A basis for the special status is that the invention ***materially contributes to energy conservation***, namely the use of thermostatic heating, ventilation and air conditioning ("HVAC") systems and other energy management controls that are connected to a computer network.

More specifically, a basis for the special status includes determining whether a structure is occupied by monitoring user interactions with a personal computer or an

Application No.: 12/502,064
Filing Date: July 13, 2009

Internet-enabled television located in the structure. This information is used by an energy management system to reduce energy consumption when the lack of user interactions indicates that the structure is not occupied.

Furthermore, Applicant submits that it is clear on the above-referenced application's face that the claimed invention materially contributes to energy conservation.

Appropriate Number Of Claims

The application is a non-reissue, non-provisional utility application filed under 35 U.S.C. § 111(a) and the application was previously filed before December 8, 2009. In addition, the application, with the submission of the enclosed Preliminary Amendment contains no more than three (3) independent claims and twenty (20) total claims. The application also does not contain any multiple dependent claims.

Furthermore, a first Office Action (including an Office Action containing only a restriction requirement) has not yet appeared in the Patent Application Retrieval (PAIR) system.

Statement Regarding Potential Restriction Requirement

If the U.S. Patent and Trademark Office ("USPTO") determines that the claims are directed to multiple inventions, (e.g., a restriction requirement), Applicant will agree to make an election without traverse in a telephonic interview and will elect an invention that meets the eligibility requirements in section II or III of the notice of the "Elimination of Classification Requirement in the Green Technology Pilot Program."

Early Publication

In addition, Applicant has submitted herewith a Rescission of Request for Non-publication and is hereby requesting early publication under 37 CFR § 1.219. Accordingly, Application has included the fee set forth in 37 CFR § 1.18(d).

Application No.: 12/502,064
Filing Date: July 13, 2009

Conclusion

Applicant respectfully requests that a favorable decision on this Petition to Make Special Under the Green Technology Pilot Program be granted and the application be accorded special status under the Green Technology Pilot Program.

In addition, the Commissioner is hereby authorized to charge any fees which may be required or to credit any overpayment to Account No. 11-1410.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 7-7-2010

By: John R. King
John R. King, 34,362
Attorney of Record
Customer No. 20995
(949) 721-7602

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070210

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PETITION TO MAKE SPECIAL UNDER THE GREEN TECHNOLOGY PILOT PROGRAM

| | | |
|---|--|--------------------------------|
| Attorney Docket Number: EFACT.011A | Application Number (if known): 12/502,064 | Filing date: 07/13/2009 |
|---|--|--------------------------------|

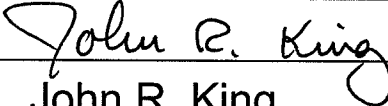
First Named Inventor: **John Douglas Steinberg**

Title: **SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM**

APPLICANT HEREBY REQUESTS TO PARTICIPATE IN THE GREEN TECHNOLOGY PILOT PROGRAM FOR THE ABOVE-IDENTIFIED APPLICATION. See Instruction Sheet on page 2.

This petition must be timely filed electronically using the USPTO electronic filing system, EFS-Web.

- By filing this petition:
Applicant is requesting early publication: Applicant hereby requests early publication under 37 CFR 1.219 and the publication fee set forth in 37 CFR 1.18(d) accompanies this request.
- By filing this petition: applicant is agreeing to make an election without traverse in a telephonic interview and elect an invention that meets the eligibility requirements set forth in the notice titled "Pilot Program for Green Technologies Including Greenhouse Gas Reduction," as modified by the notice titled "Elimination of Classification Requirement in the Green Technology Pilot Program," each of which was published in the Federal Register, if the Office determines that the claims are not obviously directed to a single invention.
- This request is accompanied by statements of special status for the eligibility requirement.
- The application contains no more than three (3) independent claims and twenty (20) total claims.
- The application does not contain any multiple dependent claims.
- Other attachments: Eligibility Statement, Preliminary Amendment, Rescission Of Request For Non-Publication

| | |
|---|-----------------------------------|
| Signature  | Date 7-7-2010 |
| Name (Print/Typed) John R. King | Registration Number 34,362 |

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.

*Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
 If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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| | | | |
|---|---|----------------------------------|---------------------------------------|
| PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875 | Application or Docket Number 12/502,064 | Filing Date 07/13/2009 | <input type="checkbox"/> To be Mailed |
|---|---|----------------------------------|---------------------------------------|

| APPLICATION AS FILED – PART I | | | OTHER THAN SMALL ENTITY | | | | |
|--|---|--------------|--|----------|----|-----------|----------|
| | (Column 1) | (Column 2) | SMALL ENTITY <input checked="" type="checkbox"/> | OR | | | |
| FOR | NUMBER FILED | NUMBER EXTRA | RATE (\$) | FEE (\$) | OR | RATE (\$) | FEE (\$) |
| <input type="checkbox"/> BASIC FEE <small>(37 CFR 1.16(a), (b), or (c))</small> | N/A | N/A | N/A | | OR | N/A | |
| <input type="checkbox"/> SEARCH FEE <small>(37 CFR 1.16(k), (l), or (m))</small> | N/A | N/A | N/A | | OR | N/A | |
| <input type="checkbox"/> EXAMINATION FEE <small>(37 CFR 1.16(o), (p), or (q))</small> | N/A | N/A | N/A | | OR | N/A | |
| TOTAL CLAIMS <small>(37 CFR 1.16(i))</small> | minus 20 = | * | X \$ = | | OR | X \$ = | |
| INDEPENDENT CLAIMS <small>(37 CFR 1.16(h))</small> | minus 3 = | * | X \$ = | | OR | X \$ = | |
| <input type="checkbox"/> APPLICATION SIZE FEE <small>(37 CFR 1.16(s))</small> | If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s). | | | | OR | | |
| <input type="checkbox"/> MULTIPLE DEPENDENT CLAIM PRESENT <small>(37 CFR 1.16(j))</small> | | | | | OR | | |
| * If the difference in column 1 is less than zero, enter "0" in column 2. | | | TOTAL | | OR | TOTAL | |

| APPLICATION AS AMENDED – PART II | | | | | OTHER THAN SMALL ENTITY | | | | |
|----------------------------------|--|----------------------------------|------------------------------------|---------------|-------------------------|---------------------|----|-----------------|---------------------|
| | (Column 1) | (Column 2) | (Column 3) | | | | | | |
| AMENDMENT | 07/07/2010 | CLAIMS REMAINING AFTER AMENDMENT | HIGHEST NUMBER PREVIOUSLY PAID FOR | PRESENT EXTRA | RATE (\$) | ADDITIONAL FEE (\$) | OR | RATE (\$) | ADDITIONAL FEE (\$) |
| | Total (37 CFR 1.16(i)) | * 20 | Minus ** 22 | = 0 | X \$26 = | 0 | OR | X \$ = | |
| | Independent (37 CFR 1.16(h)) | * 2 | Minus *** 3 | = 0 | X \$110 = | 0 | OR | X \$ = | |
| | <input type="checkbox"/> Application Size Fee (37 CFR 1.16(s)) | | | | | | OR | | |
| | <input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j)) | | | | | | OR | | |
| | | | | | TOTAL ADD'L FEE | 0 | OR | TOTAL ADD'L FEE | |

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|-----------|--|----------------------------------|------------------------------------|---------------|-----------------|---------------------|----|-----------------|---------------------|
| | (Column 1) | (Column 2) | (Column 3) | | | | | | |
| AMENDMENT | | CLAIMS REMAINING AFTER AMENDMENT | HIGHEST NUMBER PREVIOUSLY PAID FOR | PRESENT EXTRA | RATE (\$) | ADDITIONAL FEE (\$) | OR | RATE (\$) | ADDITIONAL FEE (\$) |
| | Total (37 CFR 1.16(i)) | * | Minus ** | = | X \$ = | | OR | X \$ = | |
| | Independent (37 CFR 1.16(h)) | * | Minus *** | = | X \$ = | | OR | X \$ = | |
| | <input type="checkbox"/> Application Size Fee (37 CFR 1.16(s)) | | | | | | OR | | |
| | <input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j)) | | | | | | OR | | |
| | | | | | TOTAL ADD'L FEE | | OR | TOTAL ADD'L FEE | |

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
 ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".
 *** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".

Legal Instrument Examiner:
 /PAMELA YOUNG/

The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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| INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Application No. | 12/502064 |
| | Filing Date | 07-13-2009 |
| | First Named Inventor | Steinberg, John Douglas |
| | Art Unit | 3744 |
| <i>(Multiple sheets used when necessary)</i> | Examiner | |
| SHEET 1 OF 4 | Attorney Docket No. | JSTEIN.011A |

| U.S. PATENT DOCUMENTS | | | | | |
|-----------------------|----------|---|--------------------------------|-------------------------------|--|
| Examiner Initials | Cite No. | Document Number Number - Kind Code (if known) Example: 1,234,567 B1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear |
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| Examiner Signature | Date Considered |
| <p>*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.</p> | |

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| INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Application No. | 12/502064 |
| | Filing Date | 07-13-2009 |
| | First Named Inventor | Steinberg, John Douglas |
| | Art Unit | 3744 |
| <i>(Multiple sheets used when necessary)</i> | Examiner | |
| SHEET 2 OF 4 | Attorney Docket No. | JSTEIN.011A |

| U.S. PATENT DOCUMENTS | | | | | |
|-----------------------|----------|---|--------------------------------|-------------------------------|--|
| Examiner Initials | Cite No. | Document Number Number - Kind Code (if known) Example: 1,234,567 B1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear |
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| Examiner Signature | Date Considered |
| <p>*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.</p> | |

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| INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Application No. | 12/502064 |
| | Filing Date | 07-13-2009 |
| | First Named Inventor | Steinberg, John Douglas |
| | Art Unit | 3744 |
| <i>(Multiple sheets used when necessary)</i> | Examiner | |
| SHEET 3 OF 4 | Attorney Docket No. | JSTEIN.011A |

U.S. PATENT DOCUMENTS

| Examiner Initials | Cite No. | Document Number Number - Kind Code (if known) Example: 1,234,567 B1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear |
|-------------------|-----------|---|--------------------------------|-------------------------------|--|
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| Examiner Initials | Cite No. | Foreign Patent Document Country Code-Number-Kind Code Example: JP 1234567 A1 | Publication Date MM-DD-YYYY | Name of Patentee or Applicant | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear | T ¹ |
|-------------------|----------|--|--------------------------------|-------------------------------|--|----------------|
|-------------------|----------|--|--------------------------------|-------------------------------|--|----------------|

NON PATENT LITERATURE DOCUMENTS

| Examiner Initials | Cite No. | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T ¹ |
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| Examiner Signature | Date Considered |
| * Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. | |

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|--|----------------------|-------------------------|
| INFORMATION DISCLOSURE STATEMENT BY APPLICANT | Application No. | 12/502064 |
| | Filing Date | 07-13-2009 |
| | First Named Inventor | Steinberg, John Douglas |
| | Art Unit | 3744 |
| <i>(Multiple sheets used when necessary)</i> | Examiner | |
| SHEET 4 OF 4 | Attorney Docket No. | JSTEIN.011A |

NON PATENT LITERATURE DOCUMENTS

| Examiner Initials | Cite No. | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T ¹ |
|----------------------|-------------|---|----------------|
| | 74 | WANG, ARENS, FEDERSPIEL., "Opportunities to Save Energy and Improve Comfort by Using Wireless Sensor networks in Buildings," (2003), Center for Environmental Design Research | |
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| Examiner Signature | Date Considered |
| <p>*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.</p> | |

T¹ - Place a check mark in this area when an English language Translation is attached to the application. **Examiner: IPR2021-01052**
Ex.1008, Page 232 of 282

Electronic Acknowledgement Receipt

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|---|--|
| EFS ID: | 6673695 |
| Application Number: | 12502064 |
| International Application Number: | |
| Confirmation Number: | 5514 |
| Title of Invention: | SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM |
| First Named Inventor/Applicant Name: | John Douglas Steinberg |
| Customer Number: | 20995 |
| Filer: | Scott Edward Raevsky/Alexandra Benitez |
| Filer Authorized By: | Scott Edward Raevsky |
| Attorney Docket Number: | JSTEIN.011A |
| Receipt Date: | 18-DEC-2009 |
| Filing Date: | 13-JUL-2009 |
| Time Stamp: | 20:13:45 |
| Application Type: | Utility under 35 USC 111(a) |

Payment information:

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File Listing:

| Document Number | Document Description | File Name | File Size(Bytes)/ Message Digest | Multi Part /.zip | Pages (if appl.) |
|-----------------|----------------------|-------------|---|------------------|------------------|
| 1 | | IDS_011.pdf | 35347 2abd5b754b4c0b01e1ecce95edf46f0ccfb8c7c9 | yes | 5 |

| Multipart Description/PDF files in .zip description | | | | | |
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| Document Description | | | Start | End | |
| Transmittal Letter | | | 1 | 1 | |
| Information Disclosure Statement (IDS) Filed (SB/08) | | | 2 | 5 | |
| Warnings: | | | | | |
| Information: | | | | | |
| 2 | NPL Documents | ARNES.pdf | 1378534 c1add0be1c2bc7291438f2275f320d73a54a4dcf | no | 16 |
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| Information: | | | | | |
| 3 | NPL Documents | Comverge.pdf | 917053 4b9ebdb8c7dc375a3ff2daec000a14eea0a6dde7 | no | 2 |
| Warnings: | | | | | |
| Information: | | | | | |
| 4 | NPL Documents | Control4.pdf | 1950689 84423322a60f9081963f47525c581891da38b74d | no | 2 |
| Warnings: | | | | | |
| Information: | | | | | |
| 5 | NPL Documents | Cooper.PDF | 1062463 4788abd6f87f2e4d97f54a3f818d82514dca493b | no | 12 |
| Warnings: | | | | | |
| Information: | | | | | |
| 6 | NPL Documents | Enermoc.PDF | 585325 deea04f0060b5f2789c3441a3172312ab659454f | no | 3 |
| Warnings: | | | | | |
| Information: | | | | | |
| 7 | NPL Documents | Enerwise.PDF | 147015 10c28a238066e0df55cfad3decf90071bc754c36 | no | 2 |
| Warnings: | | | | | |
| Information: | | | | | |
| 8 | NPL Documents | Johnson.PDF | 1033607 b55b26fa4fd9d54b66d60d736dfe7fb653c1ae71 | no | 4 |
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| Information: | | | | | |

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|-------------------------------------|---------------|---------------|---|----|----|
| 9 | NPL Documents | KILICOTTE.PDF | 1002435 | no | 13 |
| | | | 99b2138bf5a2229bbac358a8eba2dd19c672422f | | |
| Warnings: | | | | | |
| Information: | | | | | |
| 10 | NPL Documents | LIN.PDF | 576150 | no | 11 |
| | | | 6512de55f111e85f8f64cd041eaebf71761cfc9 | | |
| Warnings: | | | | | |
| Information: | | | | | |
| 11 | NPL Documents | PIER.PDF | 8672234 | no | 93 |
| | | | d1d42d178440a55019054db4029db92968a6dcaf | | |
| Warnings: | | | | | |
| Information: | | | | | |
| 12 | NPL Documents | Proliphix.pdf | 886167 | no | 2 |
| | | | aba8a21693e75afc6950d931a078af5ae48f5908 | | |
| Warnings: | | | | | |
| Information: | | | | | |
| 13 | NPL Documents | WANG.PDF | 710120 | no | 6 |
| | | | 3ecde3b746ff71ad1e1763b76ba58546ffd84fe7d | | |
| Warnings: | | | | | |
| Information: | | | | | |
| 14 | NPL Documents | Wetter.PDF | 987315 | no | 11 |
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This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

INFORMATION DISCLOSURE STATEMENT

Applicant : Steinberg, John Douglas
App. No : 12/502,064
Filed : July 13, 2009
For : SYSTEM AND METHOD FOR
USING A NETWORKED
ELECTRONIC DEVICE AS AN
OCCUPANCY SENSOR FOR AN
ENERGY MANAGEMENT SYSTEM
Examiner : Unknown
Art Unit : 3744
Conf No. : 5514

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Enclosed for filing in the above-identified application is a PTO/SB/08 Equivalent listing 75 references, of which 13 are enclosed/submitted.

This Information Disclosure Statement is being filed before the receipt of a first Office Action on the merits, and presumably no fee is required. If a first Office Action on the merits was mailed before the mailing date of this Statement, the Commissioner is authorized to charge the fee set forth in 37 C.F.R. § 1.17(p) to Deposit Account No. 11-1410.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: December 18, 2009

By: /Scott Raevsky/
Scott Raevsky, Reg. No. 54,384
Attorney of Record
Customer No. 20995
(949) 721-7602



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Table with 7 columns: APPLICATION NUMBER, FILING or 371(c) DATE, GRP ART UNIT, FIL FEE REC'D, ATTY. DOCKET NO, TOT CLAIMS, IND CLAIMS. Row 1: 12/502,064, 07/13/2009, 3744, 579, JSTEIN.011A, 22, 2

CONFIRMATION NO. 5514

UPDATED FILING RECEIPT

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614



Date Mailed: 10/07/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections

Applicant(s)

John Douglas Steinberg, Millbrae, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 61/134,714 07/14/2008

Foreign Applications

If Required, Foreign Filing License Granted: 07/22/2009

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US 12/502,064

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

** SMALL ENTITY **

Title

SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM

Preliminary Class

236

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

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For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER**Title 35, United States Code, Section 184****Title 37, Code of Federal Regulations, 5.11 & 5.15****GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

Please Direct All Correspondence to Customer Number 20,995

RESPONSE TO FORMALITIES NOTICE

Applicant : John Douglas Steinberg
App. No : 12/502,064
Filed : July 13, 2009
For : SYSTEM AND METHOD FOR
USING A NETWORKED
ELECTRONIC DEVICE AS AN
OCCUPANCY SENSOR FOR AN
ENERGY MANAGEMENT SYSTEM
Art Unit : 3744
Conf. No. : 5514

**Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

Dear Sir:

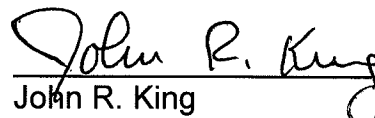
The above-captioned application was filed without a Declaration and/or filing fees. Enclosed in compliance with 37 CFR 1.53(f) are the following.

(X) A Declaration in 1 pages.

The present application qualifies for small entity status under 37 CFR § 1.27.

(X) Fees will be paid via EFS Web. Extension of time is requested by payment of any extension fee.

The Commissioner is hereby authorized to charge any additional fees which may be required, now or in the future, or credit any overpayment, to Account No. 11-1410.



John R. King
Registration No. 34,362
Attorney of Record
Customer No. 20,995
(949) 760-0404

**DECLARATION FOR UTILITY OR DESIGN APPLICATION
UNDER 37 CFR 1.63**

Docket No.: JSTEIN.011A

Page 1 of 1

Title: SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE
AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM

Inventors: John Douglas Steinberg

Please Direct All Correspondence to Customer Number 20,995

This Declaration is directed to the invention that:

Was filed as Serial No. 12/502,064 filed on July 13, 2009

As a below named inventor:

I believe the inventor named below to be the original and first inventor of the subject matter which is described and claimed and for which a patent is sought;

I have reviewed and understand the contents of the above-identified application, including the claims, and any amendment filed herewith or identified above;

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56;

The application was originally filed with an Application Data Sheet (ADS). The ADS sets forth any applicable Foreign Priority Claims under 35 USC § 119, and sets forth the full mailing and residence address of each inventor whose signature appears below as allowed under 37 CFR 1.63(c). The ADS also sets forth any Domestic Priority Claims under 35 USC §§ 119(e), 120, 121, and 365.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of **first** inventor: John Douglas Steinberg

Signature: _____

Date: 9/23/09

Citizenship: _____

United States

Send Correspondence To:
KNOBBE, MARTENS, OLSON & BEAR, LLP
Customer No. 20,995

7845463:ad/092309

Electronic Patent Application Fee Transmittal

| | |
|---|--|
| Application Number: | 12502064 |
| Filing Date: | 13-Jul-2009 |
| Title of Invention: | SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM |
| First Named Inventor/Applicant Name: | John Douglas Steinberg |
| Filer: | John R. King/Amy Durrant |
| Attorney Docket Number: | JSTEIN.011A |

Filed as Small Entity

Utility under 35 USC 111(a) Filing Fees

| Description | Fee Code | Quantity | Amount | Sub-Total in USD(\$) |
|--|----------|----------|--------|----------------------|
| Basic Filing: | | | | |
| Utility filing Fee (Electronic filing) | 4011 | 1 | 82 | 82 |
| Utility Search Fee | 2111 | 1 | 270 | 270 |
| Utility Examination Fee | 2311 | 1 | 110 | 110 |

Pages:

Claims:

| | | | | |
|------------------------|------|---|----|----|
| Claims in excess of 20 | 2202 | 2 | 26 | 52 |
|------------------------|------|---|----|----|

Miscellaneous-Filing:

| | | | | |
|---|------|---|----|----|
| Late filing fee for oath or declaration | 2051 | 1 | 65 | 65 |
|---|------|---|----|----|

| Description | Fee Code | Quantity | Amount | Sub-Total in USD(\$) |
|--|----------|----------|--------------------------|----------------------|
| Petition: | | | | |
| Patent-Appeals-and-Interference: | | | | |
| Post-Allowance-and-Post-Issuance: | | | | |
| Extension-of-Time: | | | | |
| Miscellaneous: | | | | |
| | | | Total in USD (\$) | 579 |

Electronic Acknowledgement Receipt

| | |
|---|--|
| EFS ID: | 6145427 |
| Application Number: | 12502064 |
| International Application Number: | |
| Confirmation Number: | 5514 |
| Title of Invention: | SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM |
| First Named Inventor/Applicant Name: | John Douglas Steinberg |
| Customer Number: | 20995 |
| Filer: | John R. King/Nicole Jones |
| Filer Authorized By: | John R. King |
| Attorney Docket Number: | JSTEIN.011A |
| Receipt Date: | 25-SEP-2009 |
| Filing Date: | 13-JUL-2009 |
| Time Stamp: | 12:25:05 |
| Application Type: | Utility under 35 USC 111(a) |

Payment information:

| | |
|--|-------------------------------|
| Submitted with Payment | yes |
| Payment Type | Credit Card |
| Payment was successfully received in RAM | \$579 |
| RAM confirmation Number | 11429 |
| Deposit Account | 111410 |
| Authorized User | KNOBBE MARTENS OLSON AND BEAR |

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

Charge any Additional Fees required under 37 C.F.R. Section 1.16 (National application filing, search, and examination fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.17 (Patent application and reexamination processing fees)

ecobee, IPR2021-01052

| File Listing: | | | | | |
|---|---|-----------------------------|---|-------------------------|-------------------------|
| Document Number | Document Description | File Name | File Size(Bytes)/ Message Digest | Multi Part /.zip | Pages (if appl.) |
| 1 | Applicant Response to Pre-Exam Formalities Notice | JSTEIN-011A_MP.pdf | 35199 9473e191bf39d630417d9a892dc7e3c49d0565d0 | no | 1 |
| Warnings: | | | | | |
| Information: | | | | | |
| 2 | Oath or Declaration filed | JSTEIN-011A_declaration.pdf | 55743 218673f99d89c6301f125b0ce2aa74bd8d8f3d5c | no | 1 |
| Warnings: | | | | | |
| Information: | | | | | |
| 3 | Fee Worksheet (PTO-875) | fee-info.pdf | 38605 c9f8af83f52a2f868ba39ae64fd8104efac283b | no | 2 |
| Warnings: | | | | | |
| Information: | | | | | |
| Total Files Size (in bytes): | | | 129547 | | |
| <p>This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.</p> <p><u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.</p> <p><u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.</p> <p><u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.</p> | | | | | |



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Table with 4 columns: APPLICATION NUMBER (12/502,064), FILING OR 371(C) DATE (07/13/2009), FIRST NAMED APPLICANT (John Douglas Steinberg), ATTY. DOCKET NO./TITLE (JSTEIN.011A)

CONFIRMATION NO. 5514

FORMALITIES LETTER



20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 07/28/2009

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment.

- The statutory basic filing fee is missing. Applicant must submit \$82 to complete the basic filing fee for a small entity.
The oath or declaration is missing. A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
Note: If a petition under 37 CFR 1.47 is being filed, an oath or declaration in compliance with 37 CFR 1.63 signed by all available joint inventors, or if no inventor is available by a party with sufficient proprietary interest, is required.

The applicant needs to satisfy supplemental fees problems indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Additional claim fees of \$52 as a small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.
To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.16(f) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this notice.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is \$579 for a small entity

- \$82 Statutory basic filing fee.
\$65 Surcharge.
The application search fee has not been paid. Applicant must submit \$270 to complete the search fee.

- The application examination fee has not been paid. Applicant must submit **\$110** to complete the examination fee for a small entity in compliance with 37 CFR 1.27.
- Total additional claim fee(s) for this application is **\$52**
 - **\$52** for **2** total claims over 20.

Replies should be mailed to:

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
<https://portal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at <http://www.uspto.gov/ebc>.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

/mhaile/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Table with 7 columns: APPLICATION NUMBER, FILING or 371(c) DATE, GRP ART UNIT, FIL FEE REC'D, ATTY. DOCKET NO, TOT CLAIMS, IND CLAIMS. Row 1: 12/502,064, 07/13/2009, 3744, 0.00, JSTEIN.011A, 22, 2

CONFIRMATION NO. 5514

FILING RECEIPT

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614



Date Mailed: 07/28/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections

Applicant(s)

John Douglas Steinberg, Millbrae, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 61/134,714 07/14/2008

Foreign Applications

If Required, Foreign Filing License Granted: 07/22/2009

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US 12/502,064

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

** SMALL ENTITY **

Title

SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM

Preliminary Class

236

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER**Title 35, United States Code, Section 184****Title 37, Code of Federal Regulations, 5.11 & 5.15****GRANTED**

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the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

| | | | |
|---|--|------------------------|-------------|
| Application Data Sheet 37 CFR 1.76 | | Attorney Docket Number | JSTEIN.011A |
| | | Application Number | |
| Title of Invention | SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM | | |
| The application data sheet is part of the provisional or nonprovisional application for which it is being submitted. The following form contains the bibliographic data arranged in a format specified by the United States Patent and Trademark Office as outlined in 37 CFR 1.76. This document may be completed electronically and submitted to the Office in electronic format using the Electronic Filing System (EFS) or the document may be printed and included in a paper filed application. | | | |

Secrecy Order 37 CFR 5.2

- Portions or all of the application associated with this Application Data Sheet may fall under a Secrecy Order pursuant to 37 CFR 5.2 (Paper filers only. Applications that fall under Secrecy Order may not be filed electronically.)

Applicant Information:

| | | | | |
|---|-------------------|---|--------------------|--|
| Applicant 1 | | | | |
| Applicant Authority | | <input checked="" type="radio"/> Inventor | | <input type="radio"/> Legal Representative under 35 U.S.C. 117 |
| | | <input type="radio"/> Party of Interest under 35 U.S.C. 118 | | |
| Prefix | Given Name | Middle Name | Family Name | Suffix |
| | John | Douglas | Steinberg | |
| Residence Information (Select One) <input checked="" type="radio"/> US Residency <input type="radio"/> Non US Residency <input type="radio"/> Active US Military Service | | | | |
| City | Millbrae | State/Province | CA | Country of Residence US |
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Application Information:

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| Title of the Invention | SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM | | |
| Attorney Docket Number | JSTEIN.011A | Small Entity Status Claimed <input checked="" type="checkbox"/> | |
| Application Type | Nonprovisional | | |
| Subject Matter | Utility | | |
| Suggested Class (if any) | | Sub Class (if any) | |
| Suggested Technology Center (if any) | | | |
| Total Number of Drawing Sheets (if any) | 8 | Suggested Figure for Publication (if any) | |

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| Application Data Sheet 37 CFR 1.76 | Attorney Docket Number | JSTEIN.011A |
| | Application Number | |
| Title of Invention | SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM | |

Publication Information:
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|--------------------------|--------------------|---------------------------------------|--------------------------|
| Prior Application Status | Pending | <input type="button" value="Remove"/> | |
| Application Number | Continuity Type | Prior Application Number | Filing Date (YYYY-MM-DD) |
| | non provisional of | 61134714 | 2008-07-14 |

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| Application Number | Country ¹ | Parent Filing Date (YYYY-MM-DD) | Priority Claimed |
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| Application Data Sheet 37 CFR 1.76 | Attorney Docket Number | JSTEIN.011A |
| | Application Number | |
| Title of Invention | SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM | |

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| Signature | /John R. King/ | | Date (YYYY-MM-DD) | 2009-07-13 |
| First Name | John | Last Name | King | Registration Number |
| | | | | 34362 |

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**SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE
AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM**

CROSS-REFERENCE TO RELATED APPLICATIONS

[0001] This application claims priority to U.S. Provisional Application No. 61/134,714, filed July 14, 2008, the entirety of which is incorporated herein by reference and is to be considered part of this specification.

BACKGROUND OF THE INVENTION

Field of the Invention

[0002] This invention relates to the use of thermostatic HVAC and other energy management controls that are connected to a computer network. More specifically, the present invention pertains to the use of user interactions with an interface such as a personal computer or an Internet-enabled television as signal related to occupancy to inform an energy management system.

[0003] Heating and cooling systems for buildings (heating, ventilation and cooling, or HVAC systems) have been controlled for decades by thermostats. At the most basic level, a thermostat includes a means to allow a user to set a desired temperature, a means to sense actual temperature, and a means to signal the heating and/or cooling devices to turn on or off in order to try to change the actual temperature to equal the desired temperature. The most basic versions of thermostats use components such as a coiled bi-metallic spring to measure actual temperature and a mercury switch that opens or completes a circuit when the spring coils or uncoils with temperature changes. More recently, electronic digital thermostats have become prevalent. These thermostats use solid-state devices such as thermistors or thermal diodes to measure temperature, and microprocessor-based circuitry to control the switch and to store and operate based upon user-determined protocols for temperature vs. time.

[0004] These programmable thermostats generally offer a very restrictive user interface, limited by the cost of the devices, the limited real estate of the small wall-mounted boxes, and the inability to take into account more than two variables: the desired temperature set by the user, and the ambient temperature sensed by the thermostat. Users can generally only set one series of commands per day, and in order to change one parameter (e.g., to change the late-night temperature) the user often has to cycle through several other parameters by repeatedly pressing one or two buttons.

[0005] Because the interface of programmable thermostats is so poor, the significant theoretical savings that are possible with them (sometimes cited as 25% of heating and cooling costs) are rarely realized. In practice, studies have found that more than 50% of users never program their thermostats at all. Significant percentages of the thermostats that are programmed are programmed sub-optimally, in part because, once programmed, people tend to not to re-invest the time needed to change the settings very often.

[0006] A second problem with standard programmable thermostats is that they represent only a small evolutionary step beyond the first, purely mechanical thermostats. Like the first thermostats, they only have two input signals - ambient temperature and the preset desired temperature. The entire advance with programmable thermostats is that they can shift between multiple present temperatures at different times without real-time involvement of a human being.

[0007] Because most thermostats control HVAC systems that do not offer infinitely variable output, traditional thermostats are designed to permit the temperature as seen by the thermostat to vary above and below the setpoint to prevent the HVAC system from constantly and rapidly cycling on and off, which is inefficient and harmful to the HVAC system. The temperature range in which the thermostat allows the controlled environment to drift is known as both the dead zone and, more formally, the hysteresis zone. The hysteresis zone is frequently set at +/- 1 degree Fahrenheit. Thus if the setpoint is 68 degrees, in the heating context the thermostat will allow the inside temperature to fall to 67 degrees before turning the heating system on, and will allow it to rise to 69 degrees before turning it off again.

[0008] As energy prices rise, more attention is being paid to ways of reducing energy consumption. Because energy consumption is directly proportional to setpoint - that is, the further a given setpoint diverges from the balance point (the inside temperature assuming no HVAC activity) in a given house under given conditions, the higher energy consumption will be to maintain temperature at that setpoint), energy will be saved by virtually any strategy that over a given time frame lowers the average heating setpoint or raises the cooling setpoint. Conventional programmable thermostats allow homeowners to save money and energy by pre-programming setpoint changes based upon comfort or schedule. For example, in the summer, allowing the setpoint to rise by several degrees (or even shutting off the air conditioner) when the home is unoccupied will generally save significantly on energy. But such thermostats have proven to be only minimally effective in practice. Because they have such primitive user interfaces, they are difficult to program, and so many users never bother at all, or set them up once and do not alter the programming even if their schedules change.

[0009] In the hotel industry, the heating and cooling decisions made in hundred or even thousands of individual rooms with independently controlled HVAC systems are aggregated into a single energy bill, so hotel owners and managers are sensitive to energy consumption by those systems. Hotel guests often turn the air conditioner to a low temperature setting and then leave the room for hours at a time, thereby wasting considerable energy. An approach commonly used outside of the United States to combat this problem is to use a keycard to control the HVAC system, such that guests place the keycard into a slot mounted on the wall near the door of the room which then triggers the lights and HVAC system to power up, and turn them off when the guest removes the card upon leaving the room. However, because most hotels give each guest two cards, it is easy to simply leave the extra card in the slot, thus defeating the purpose of the system. Recently, systems have been introduced in which a motion sensor is connected to the control circuitry for the HVAC system. If no motion is detected in the room for some predetermined interval, the system concludes that the room is unoccupied, and turns off or alters the setpoint of the HVAC system to a more economical level. When the motion sensor detects motion (which is

assumed to coincide with the return of the guest), the HVAC system resets to the guest's chosen setting.

[0010] Adding occupancy detection capability to residential HVAC systems could also add considerable value in the form of energy savings without significant tradeoff in terms of comfort. But the systems used in hotels do not easily transfer to the single-family residential context. Hotel rooms tend to be small enough that a single motion sensor is sufficient to determine with a high degree of accuracy whether or not the room is occupied. A single motion sensor in the average home today would have limited value because there are likely to be many places one or more people could be home and active yet invisible to the motion sensor. The most economical way to include a motion sensor in a traditional programmable thermostat would be to build it into the thermostat itself. But thermostats are generally located in hallways, and thus are unlikely to be exposed to the areas where people tend to spend their time. Wiring a home with multiple motion sensors in order to maximize the chances of detecting occupants would involve considerable expense, both for the sensors themselves and for the considerable cost of installation, especially in the retrofit market. Yet if control is ceded to a single-sensor system that cannot reliably detect presence, the resulting errors would likely lead the homeowner to reject the system.

[0011] It would thus be desirable to provide a system that could detect occupancy without requiring the installation of additional hardware; that could accurately detect occupancy regardless of which room in the house is occupied, and could optimize energy consumption based upon dynamic and individually configurable heuristics.

SUMMARY OF THE INVENTION

[0012] In one embodiment, the invention comprises a thermostat attached to an HVAC system, a local network connecting the thermostat to a larger network such as the Internet, and one or more computers attached to the network, and a server in bi-directional communication with a plurality of such thermostats and computers. The server pairs each thermostat with one or more computers or other consumer electronic devices which are determined to be associated with the home in which the thermostat is located. The server logs the ambient temperature sensed by each thermostat vs. time and the signals sent by the

thermostats to their HVAC systems. The server also monitors and logs activity on the computers or other consumer electronic devices associated with each thermostat. Based on the activity patterns evidenced by keystrokes, cursor movement or other inputs, or lack thereof, the server instructs the thermostat to change temperature settings between those optimized for occupied and unoccupied states.

[0013] At least one embodiment of the invention comprises the steps of determining whether one or more networked electronic devices inside a structure are in use; determining whether said use of said networked electronic devices indicates occupancy of said structure; and adjusting the temperature setpoint on a thermostatic controller for an HVAC system for said structure based upon whether or not said structure is deemed to be occupied.

[0014] At least one embodiment of the invention comprises at least one said thermostat having at least one temperature setting associated with the presence of one or more occupants in said structure, and at least one temperature setting associated with the absence of occupants in said structure; one or more electronic devices having at least a user interface; where said electronic devices and said thermostat are connected to a network; where said setpoint on said thermostat is adjusted between said temperature setting associated with the presence of one or more occupants in said structure and said temperature setting associated with the absence of occupants in said structure based upon the use of said user interface for said electronic device.

BRIEF DESCRIPTION OF THE DRAWINGS

[0015] Figure 1 shows an example of an overall environment in which an embodiment of the invention may be used.

[0016] Figure 2 shows a high-level illustration of the architecture of a network showing the relationship between the major elements of one embodiment of the subject invention.

[0017] Figure 3 shows an embodiment of the website to be used as part of the subject invention.

[0018] Figure 4 shows a high-level schematic of the thermostat used as part of the subject invention.

[0019] Figure 5 shows one embodiment of the database structure used as part of the subject invention.

[0020] Figure 6 shows the browser as seen on the display of the computer used as part of the subject invention.

[0021] Figure 7 is a flowchart showing the steps involved in the operation of one embodiment of the subject invention.

[0022] Figure 8 is a flowchart that shows how the invention can be used to select different HVAC settings based upon its ability to identify which of multiple potential occupants is using the computer attached to the system.

DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENT

[0023] **Figure 1** shows an example of an overall environment 100 in which an embodiment of the invention may be used. The environment 100 includes an interactive communication network 102 with computers 104 connected thereto. Also connected to network 102 are one or more server computers 106, which store information and make the information available to computers 104. The network 102 allows communication between and among the computers 104 and 106.

[0024] Presently preferred network 102 comprises a collection of interconnected public and/or private networks that are linked to together by a set of standard protocols to form a distributed network. While network 102 is intended to refer to what is now commonly referred to as the Internet, it is also intended to encompass variations which may be made in the future, including changes additions to existing standard protocols.

[0025] When a user of the subject invention wishes to access information on network 102, the buyer initiates connection from his computer 104. For example, the user invokes a browser, which executes on computer 104. The browser, in turn, establishes a communication link with network 102. Once connected to network 102, the user can direct the browser to access information on server 106.

[0026] One popular part of the Internet is the World Wide Web. The World Wide Web contains a large number of computers 104 and servers 106, which store HyperText Markup Language (HTML) documents capable of displaying graphical and textual information. HTML is a standard coding convention and set of codes for attaching presentation and linking attributes to informational content within documents.

[0027] The servers 106 that provide offerings on the World Wide Web are typically called websites. A website is often defined by an Internet address that has an associated electronic page. Generally, an electronic page is a document that organizes the presentation of text graphical images, audio and video.

[0028] In addition to the Internet, the network 102 can comprise a wide variety of interactive communication media. For example, network 102 can include local area networks, interactive television networks, telephone networks, wireless data systems, two-way cable systems, and the like.

[0029] In one embodiment, computers 104 and servers 106 are conventional computers that are equipped with communications hardware such as modem or a network interface card. The computers include processors such as those sold by Intel and AMD. Other processors may also be used, including general-purpose processors, multi-chip processors, embedded processors and the like.

[0030] Computers 104 can also be handheld and wireless devices such as personal digital assistants (PDAs), cellular telephones and other devices capable of accessing the network. Computers 104 can also be microprocessor- controlled home entertainment equipment including advanced televisions, televisions paired with home entertainment/media centers, and wireless remote controls.

[0031] Computers 104 may utilize a browser configured to interact with the World Wide Web. Such browsers may include Microsoft Explorer, Mozilla, Firefox, Opera or Safari. They may also include browsers or similar software used on handheld, home entertainment and wireless devices. The storage medium may comprise any method of storing information. It may comprise random access memory (RAM), electronically erasable programmable read only memory (EEPROM), read only memory (ROM), hard disk, floppy disk, CD-ROM, optical memory, or other method of storing data. Computers 104 and 106

may use an operating system such as Microsoft Windows, Apple Mac OS, Linux, Unix or the like. Computers 106 may include a range of devices that provide information, sound, graphics and text, and may use a variety of operating systems and software optimized for distribution of content via networks.

[0032] **Figure 2** illustrates in further detail the architecture of the specific components connected to network 102 showing the relationship between the major elements of one embodiment of the subject invention. Attached to the network are thermostats 108 and computers 104 of various users. Connected to thermostats 108 are HVAC units 110. The HVAC units may be conventional air conditioners, heat pumps, or other devices for transferring heat into or out of a building. Each user is connected to the server 106 via wired or wireless connection such as Ethernet or a wireless protocol such as IEEE 802.11, a gateway 110 that connects the computer and thermostat to the Internet via a broadband connection such as a digital subscriber line (DSL) or other form of broadband connection to the World Wide Web. Server 106 contains the content to be served as web pages and viewed by computers 104, as well as databases containing information used by the servers.

[0033] In the currently preferred embodiment, the website 200 includes a number of components accessible to the user, as shown in **Figure 3**. Those components may include a means to enter temperature settings 202, a means to enter information about the user's home 204, a means to enter the user's electricity bills 206, means to calculate energy savings that could result from various thermostat-setting strategies 208, and means to enable and choose between various arrangements 210 for demand reduction with their electric utility provider as intermediated by the demand reduction service provider.

[0034] **Figure 4** shows a high-level block diagram of thermostat 108 used as part of the subject invention. Thermostat 108 includes temperature sensing means 252, which may be a thermistor, thermal diode or other means commonly used in the design of electronic thermostats. It includes a microprocessor 254, memory 256, a display 258, a power source 260, a relay 262, which turns the HVAC system on and off in response to a signal from the microprocessor, and contacts by which the relay is connected to the wires that lead to the HVAC system. To allow the thermostat to communicate bi-directionally with the computer network, the thermostat also includes means 264 to connect the thermostat to a local

computer or to a wireless network. Such means could be in the form of Ethernet, wireless protocols such as IEEE 802.11, IEEE 802.15.4, Bluetooth, cellular systems such as CDMA, GSM and GPRS, or other wireless protocols. The thermostat 250 may also include controls 266 allowing users to change settings directly at the thermostat, but such controls are not necessary to allow the thermostat to function.

[0035] The data used to generate the content delivered in the form of the website is stored on one or more servers 106 within one or more databases. As shown in **Figure 5**, the overall database structure 300 may include temperature database 400, thermostat settings database 500, energy bill database 600, HVAC hardware database 700, weather database 800, user database 900, transaction database 1000, product and service database 1100 and such other databases as may be needed to support these and additional features.

[0036] The website 200 will allow users of connected thermostats 250 to create personal accounts. Each user's account will store information in database 900, which tracks various attributes relative to users of the site. Such attributes may include the make and model of the specific HVAC equipment in the user's home; the age and square footage of the home, the solar orientation of the home, the location of the thermostat in the home, the user's preferred temperature settings, whether the user is a participant in a demand reduction program, etc.

[0037] As shown in Figure 3, the website 200 will permit thermostat users to perform through the web browser substantially all of the programming functions traditionally performed directly at the physical thermostat, such as temperature set points, the time at which the thermostat should be at each set point, etc. Preferably the website will also allow users to accomplish more advanced tasks such as allow users to program in vacation settings for times when the HVAC system may be turned off or run at more economical settings, and set macros that will allow changing the settings of the temperature for all periods with a single gesture such as a mouse click.

[0038] **Figure 6** represents the screen of a computer or other device 104 using a graphical user interface connected to the Internet. The screen shows that a browser 1200 is displayed on computer 104. In one embodiment, a background application installed on computer 104 detects activity by a user of the computer, such as cursor movement,

keystrokes or otherwise, and signals the application running on server 106 that activity has been detected. Server 106 may then, depending on context, (a) transmit a signal to thermostat 108 changing setpoint because occupancy has been detected at a time when the system did not expect occupancy; (b) signal the background application running on computer 104 to trigger a software routine that instantiates a pop-up window 1202 that asks the user if the server should change the current setpoint, alter the overall programming of the system based upon a new occupancy pattern, etc. The user can respond by clicking the cursor on "yes" button 1204 or "No" button 1206. Equivalent means of signalling activity may be employed with interactive television programming, gaming systems, etc.

[0039] **Figure 7** represents a flowchart showing the steps involved in the operation of one embodiment of the subject invention. In step 1302, computer 104 transmits a message to server 106 via the Internet indicating that there is user activity on computer 104. This activity can be in the form of keystrokes, cursor movement, input via a television remote control, etc. In step 1304 the application queries database 300 to retrieve setting information for the HVAC system. In step 1306 the application determines whether the current HVAC program is intended to apply when the home is occupied or unoccupied. If the HVAC settings then in effect are intended to apply for an occupied home, then the application terminates for a specified interval. If the HVAC settings then in effect are intended to apply when the home is unoccupied, then in step 1308 the application will retrieve from database 300 the user's specific preferences for how to handle this situation. If the user has previously specified (at the time that the program was initially set up or subsequently modified) that the user prefers that the system automatically change settings under such circumstances, the application then proceeds to step 1316, in which it changes the programmed setpoint for the thermostat to the setting intended for the house when occupied. If the user has previously specified that the application should not make such changes without further user input, then in step 1310 the application transmits a command to computer 104 directing the browser to display a message informing the user that the current setting assumes an unoccupied house and asking the user in step 1312 to choose whether to either keep the current settings or revert to the pre-selected setting for an occupied home. If the user selects to retain the current setting, then in step 1314 the application will write to database 300 the fact that the users has so elected and terminate.

If the user elects to change the setting, then in step 1316 the application transmits the revised setpoint to the thermostat. In step 1314 the application writes the updated setting information to database 300.

[0040] **Figure 8** is a flowchart that shows how the invention can be used to select different HVAC settings based upon its ability to identify which of multiple potential occupants is using the computer attached to the system. In step 1402 computer 104 transmits to server 106 information regarding the type of activity detected on computer 104. Such information could include the specific program or channel being watched if, for example, computer 104 is used to watch television. The information matching, for example, TV channel 7 at 4:00 PM on a given date to specific content may be made by referring to Internet-based or other widely available scheduling sources for such content. In step 1404 server 106 retrieves from database 300 previously logged data regarding viewed programs. In step 1406 server 106 retrieves previously stored data regarding the residents of the house. For example, upon initiating the service, one or more users may have filled out online questionnaires sharing their age, gender, schedules, viewing preferences, etc. In step 1408, server 106 compares the received information about user activity to previously stored information retrieved from database 300 about the occupants and their viewing preferences. For example, if computer 104 indicates to server 106 that the computer is being used to watch golf, the server may conclude that an adult male is watching; if computer 104 indicates that it is being used to watch children's programming, server 106 may conclude that a child is watching. In step 1410 the server transmits a query to the user in order to verify the match, asking, in effect, "Is that you, Bob?" In step 1412, based upon the user's response, the application determines whether the correct user has been identified. If the answer is no, then the application proceeds to step 1416. If the answer is yes, then in step 1414 the application retrieves the temperature settings for the identified occupant. In step 1416 the application writes to database 300 the programming information and information regarding matching of users to that programming.

[0041] In an alternative embodiment, the application running on computer 104 may respond to general user inputs (that is, inputs not specifically intended to instantiate communication with the remote server) by querying the user whether a given action should

be taken. For example, in a system in which the computer 104 is a web-enabled television or web-enabled set-top device connected to a television as a display, software running on computer 104 detects user activity, and transmits a message indicating such activity to server 106. The trigger for this signal may be general, such as changing channels or adjusting volume with the remote control or a power-on event. Upon receipt by server 104 of this trigger, server 104 transmits instructions to computer 104 causing it to display a dialog box asking the user whether the user wishes to change HVAC settings.

WHAT IS CLAIMED IS:

1. A method for varying temperature setpoints for an HVAC system comprising:
determining whether one or more networked electronic devices inside a structure are in use;
determining whether said use of said networked electronic devices indicates occupancy of said structure; and
adjusting the temperature setpoint on a thermostatic controller for an HVAC system for said structure based upon whether or not said structure is deemed to be occupied.
2. The method of Claim 1 in which said networked electronic device is a television.
3. The method of Claim 1 in which said networked electronic device is a personal computer.
4. The method of Claim 1 in which said networked electronic device is connected to the Internet.
5. The method of Claim 1 in which programming being watched or listened to using said networked electronic device is used to determine which occupant of said structure is likely to be present, and the setpoint for said thermostatic controller is selected based upon the preferences of the occupant determined to be using said networked electronic device.
6. The method of Claim 1 in which said networked electronic device is a game console.
7. The method of Claim 1 in which said networked electronic device communicates with a remote server.
8. The method of Claim 1 in which said adjusting of said temperature setpoints is logged to a database.
9. The method of Claim 1 in which said adjusting of said temperature setpoints is initiated by a remote computer.
10. The method of Claim 1 in which said temperature setpoints are varied automatically.

11. The method of Claim 1 in which an occupant is prompted to confirm occupancy prior to the adjusting of said temperature setpoint.

12. A system for altering the setpoint on a thermostat for space conditioning of a structure comprising:

at least one thermostat having at least one temperature setting associated with the presence of one or more occupants in a structure, and at least one temperature setting associated with the absence of occupants in said structure;

one or more electronic devices having at least a user interface;

wherein said electronic devices and said thermostat are connected to a network; and

wherein said setpoint on said thermostat is adjusted between said temperature setting associated with the presence of one or more occupants in said structure and said temperature setting associated with the absence of occupants in said structure based upon the use of said user interface for said electronic device.

13. The system of Claim 12 in which said electronic device is a television.

14. The system of Claim 12 in which said electronic device is a personal computer.

15. The system of Claim 12 in which said electronic device is connected to the Internet.

16. The system of Claim 12 in which the programming being watched or listened to using said networked electronic device is used to determine which occupant of said structure is likely to be using said networked electronic device, and the setpoint for said thermostatic controller is selected based upon the preferences of the occupant determined to be using said networked electronic device.

17. The system of Claim 12 in which said networked electronic device is a game console.

18. The system of Claim 12 in which said networked electronic device communicates with a remote server.

19. The system of Claim 12 in which variation of temperature setpoints is logged to a database.

20. The system of Claim 12 in which variation of temperature setpoints is initiated by a remote computer.

21. The system of Claim 12 in which said temperature setpoints are varied automatically.

22. The system of Claim 12 in which an occupant is prompted to confirm occupancy prior to adjustment of said temperature setpoint.

**SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE
AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM**

ABSTRACT OF THE DISCLOSURE

The invention comprises systems and methods for detecting the use of networked consumer electronics devices as indications of occupancy of a structure for purposes of automatically adjusting the temperature setpoint on a thermostatic HVAC control. At least one thermostat is located inside a structure and is used to control an HVAC system in the structure. At least one networked electronic device is used to indicate the state of occupancy of the structure. The state of occupancy is used to alter the setpoint on the thermostatic HVAC control to reduce unneeded conditioning of unoccupied spaces.

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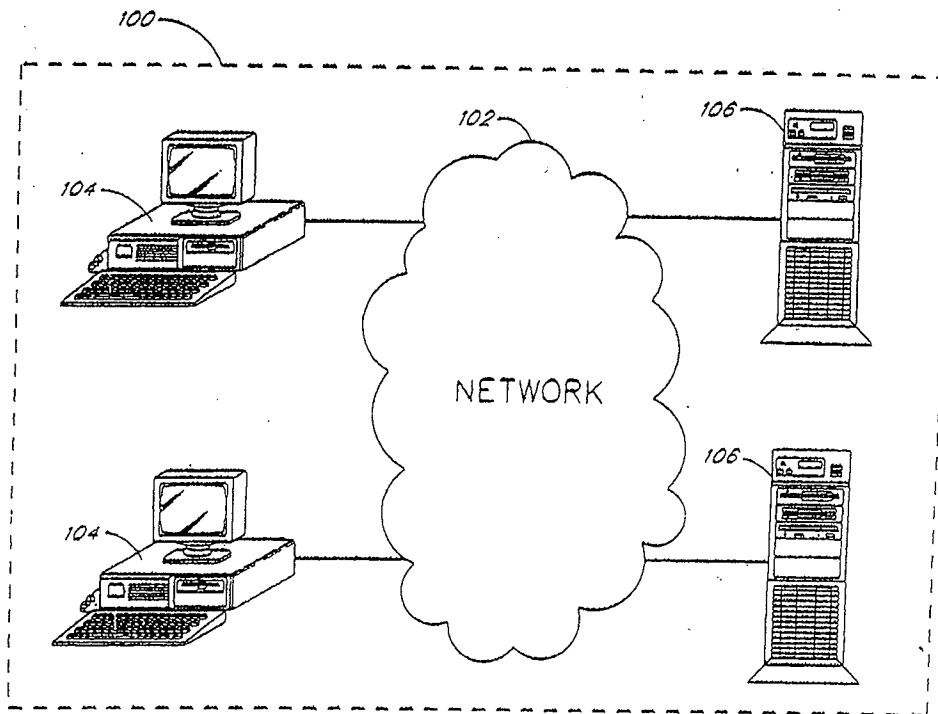


FIG. 1

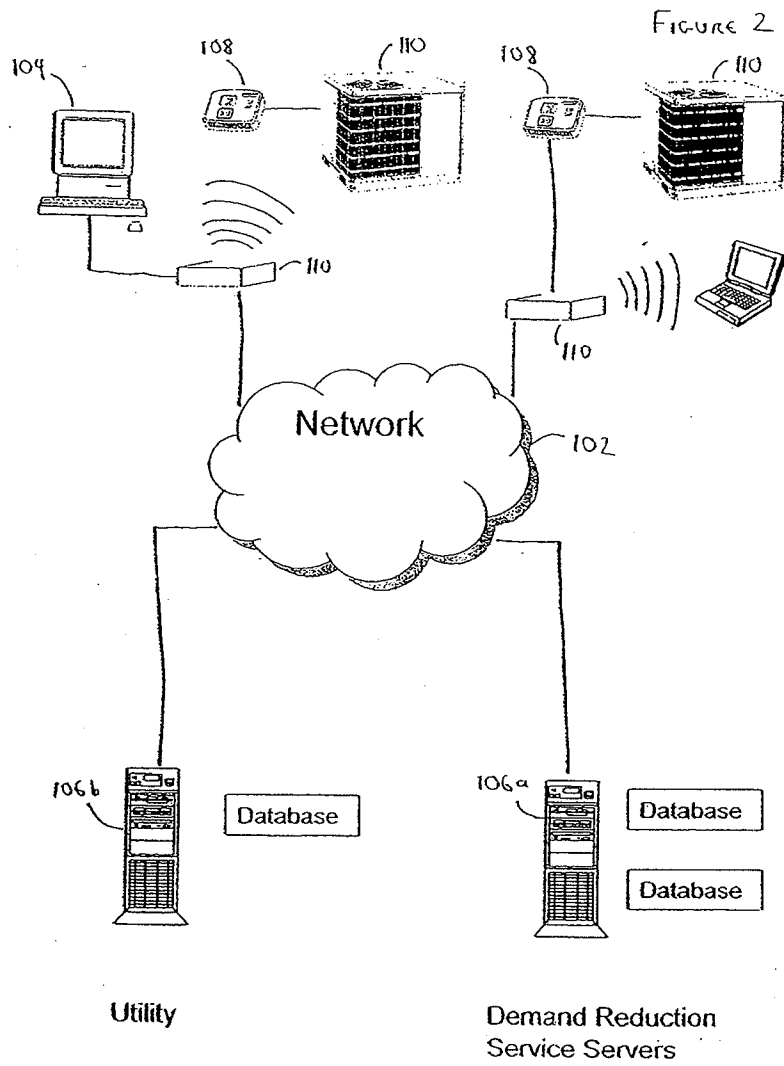


Figure 3

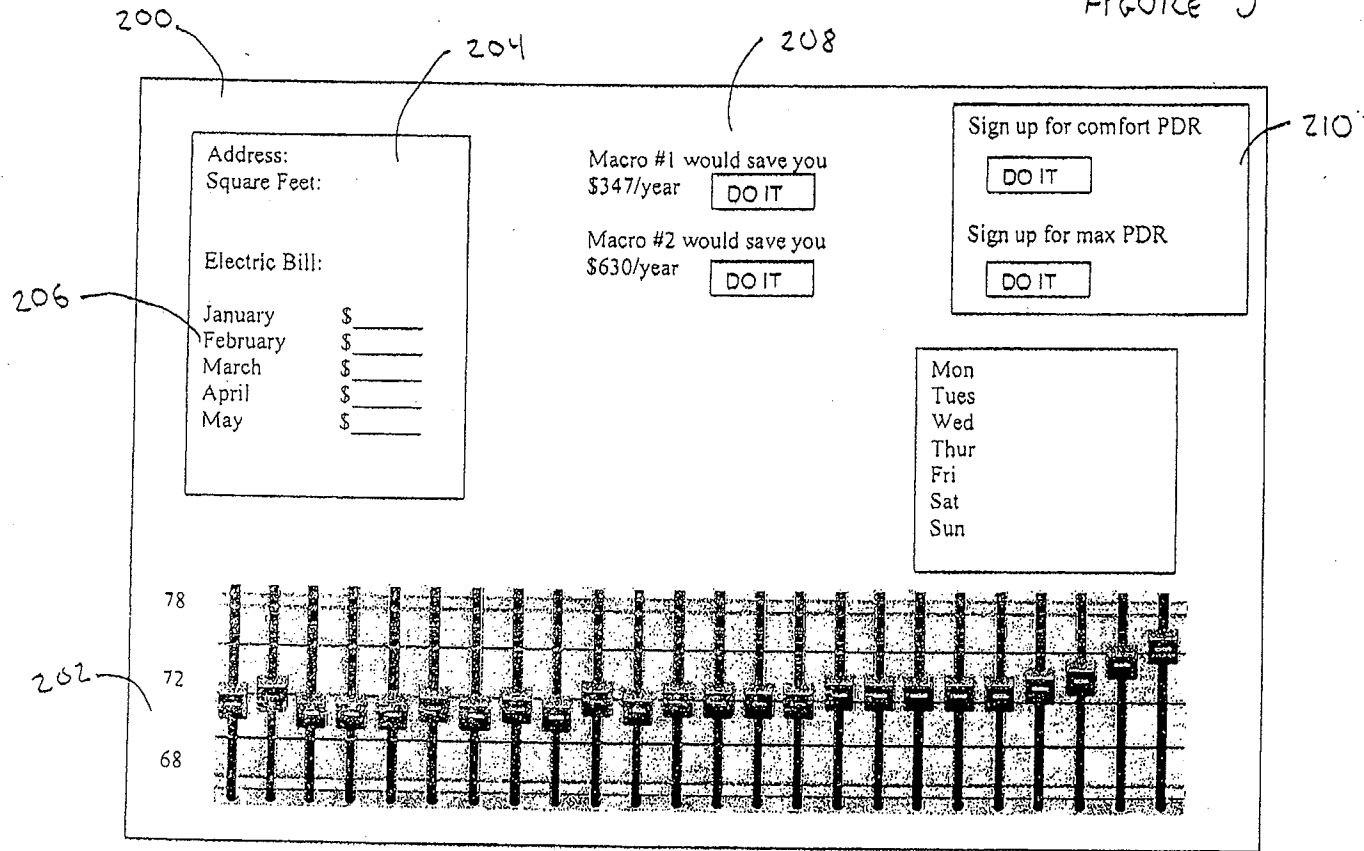


FIGURE 4

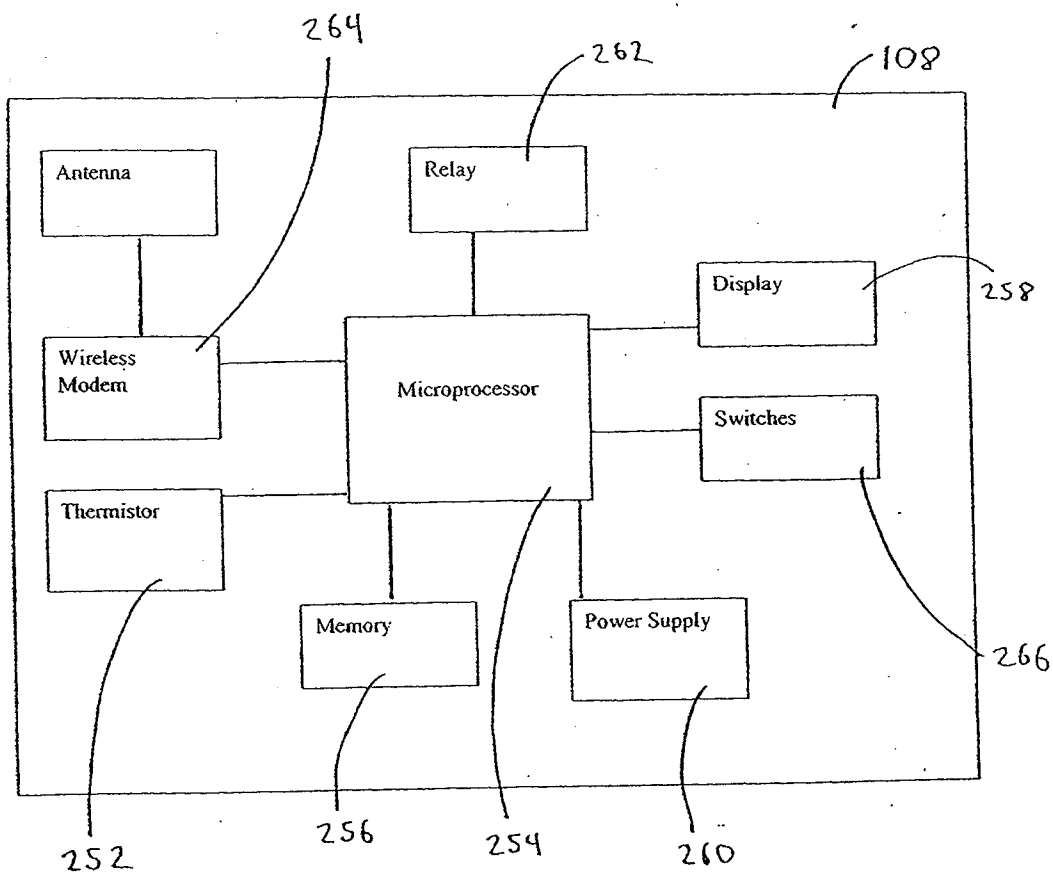


FIGURE 5

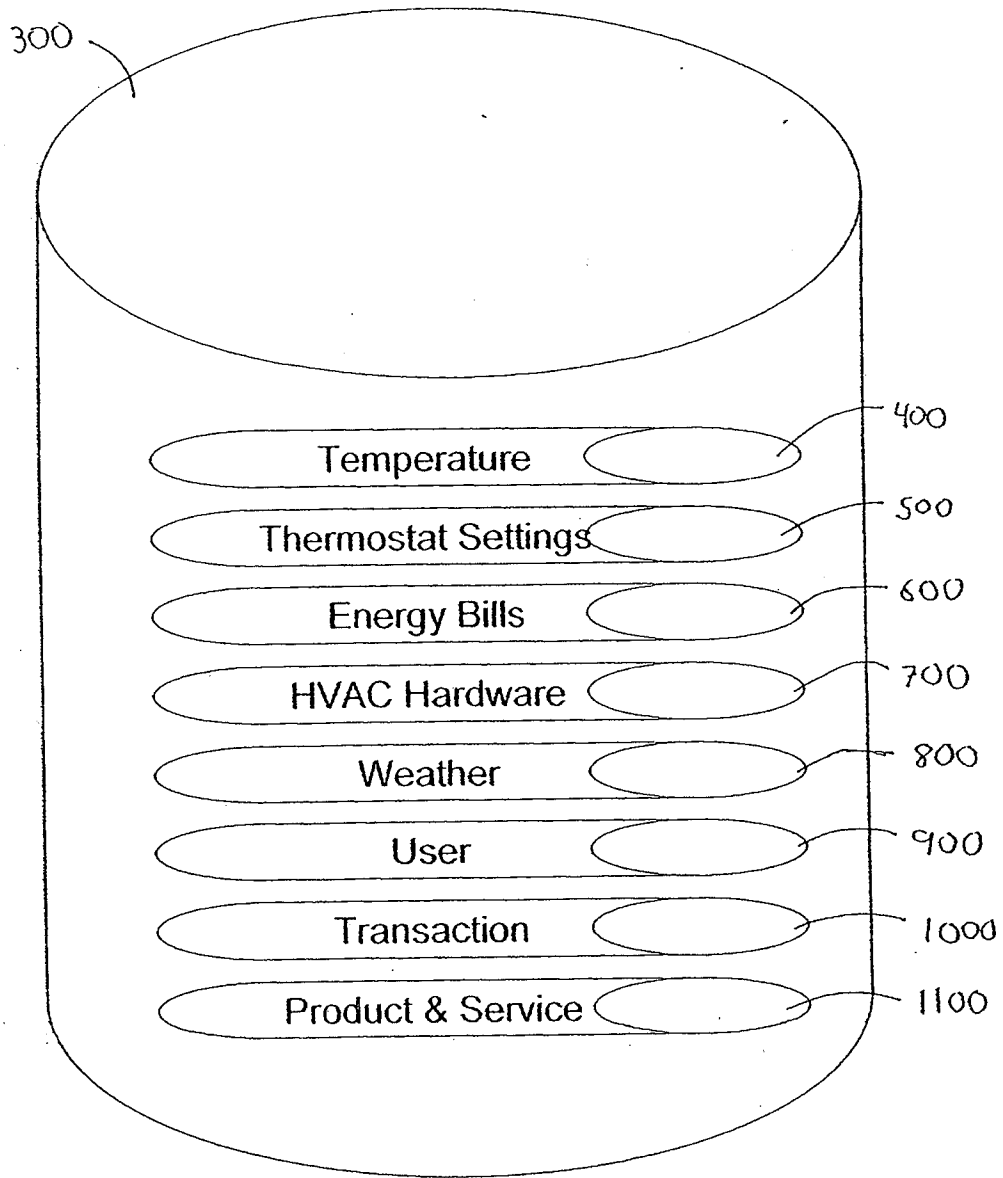


Fig 6

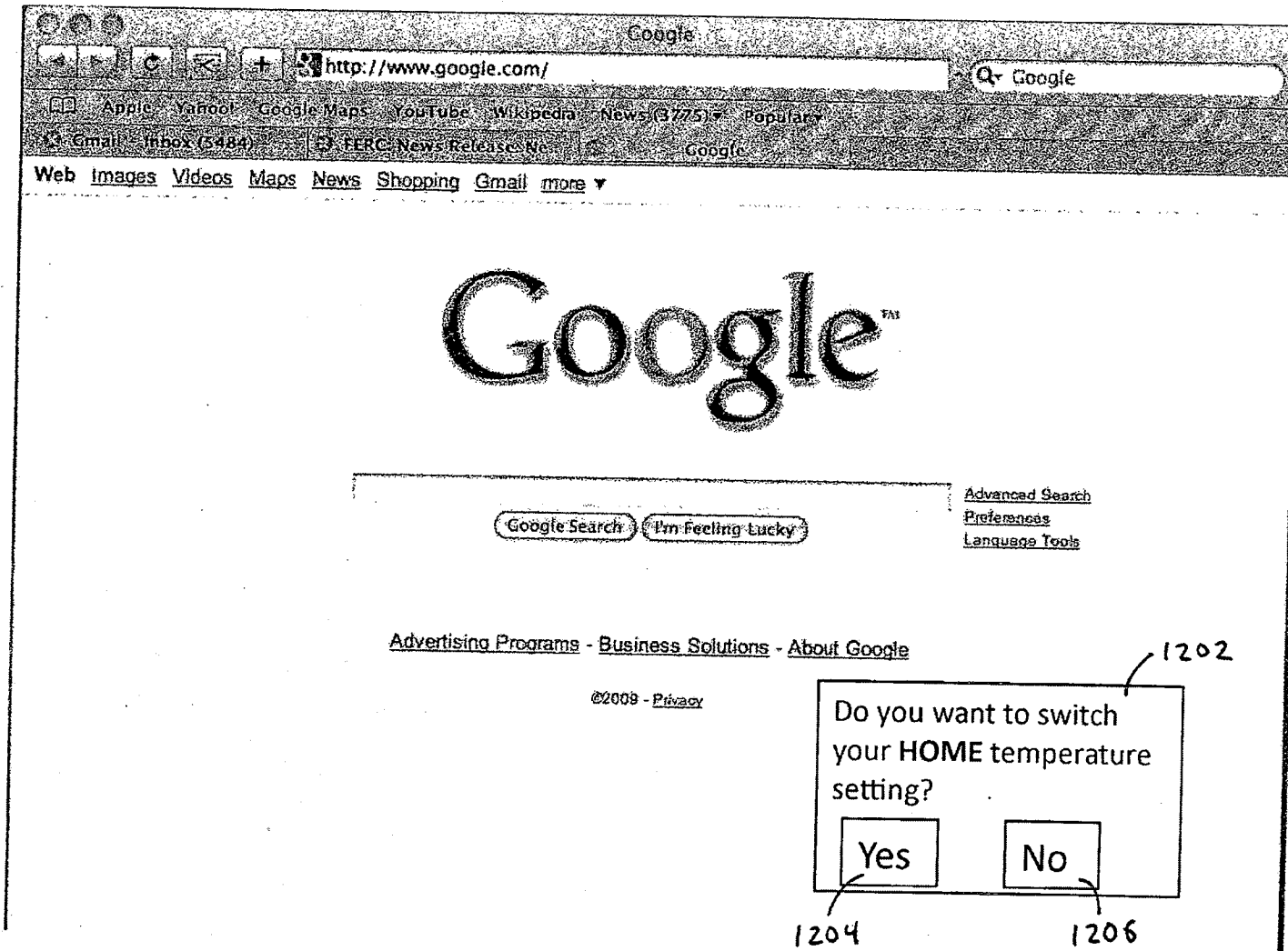


Fig 7

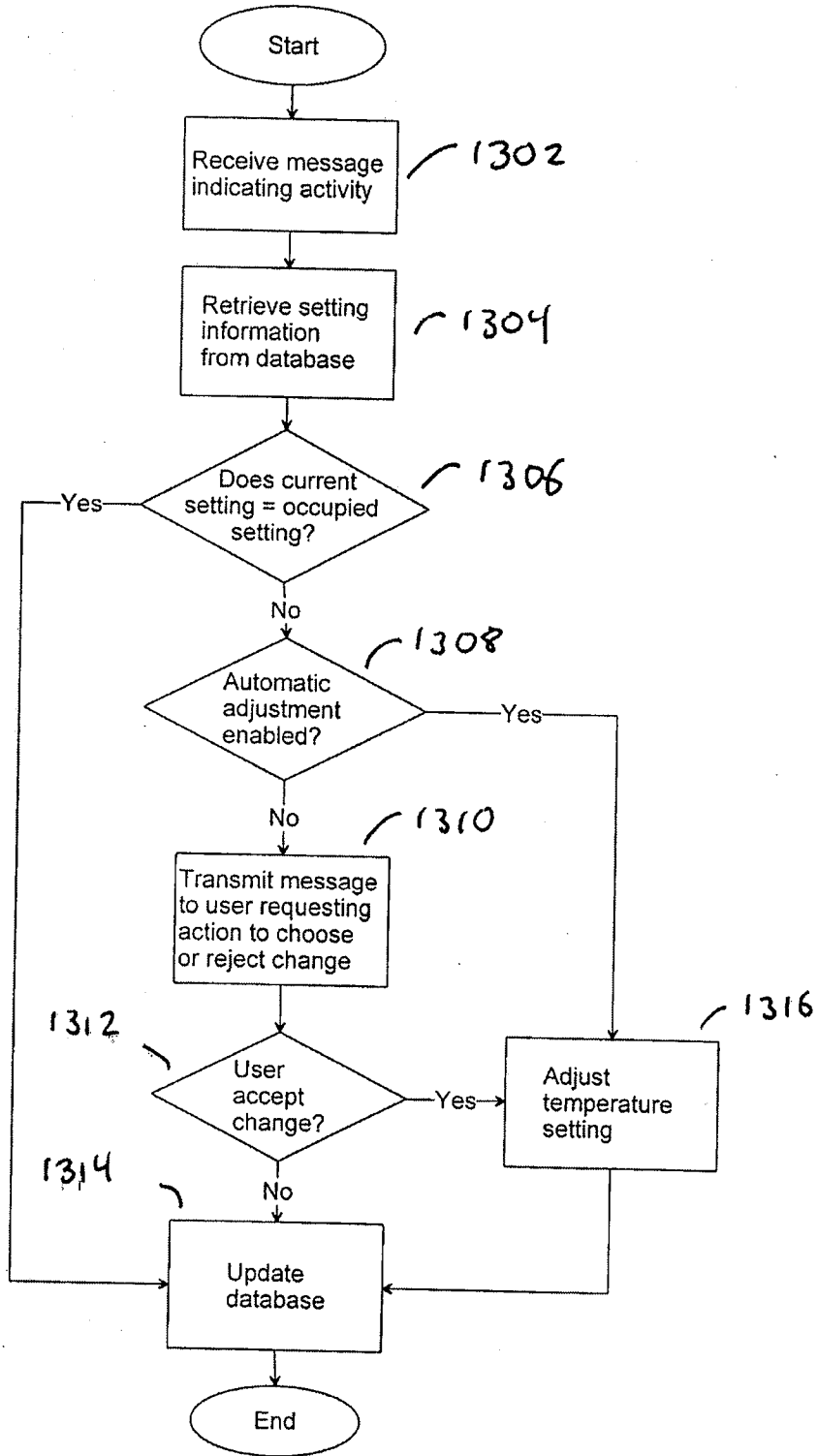
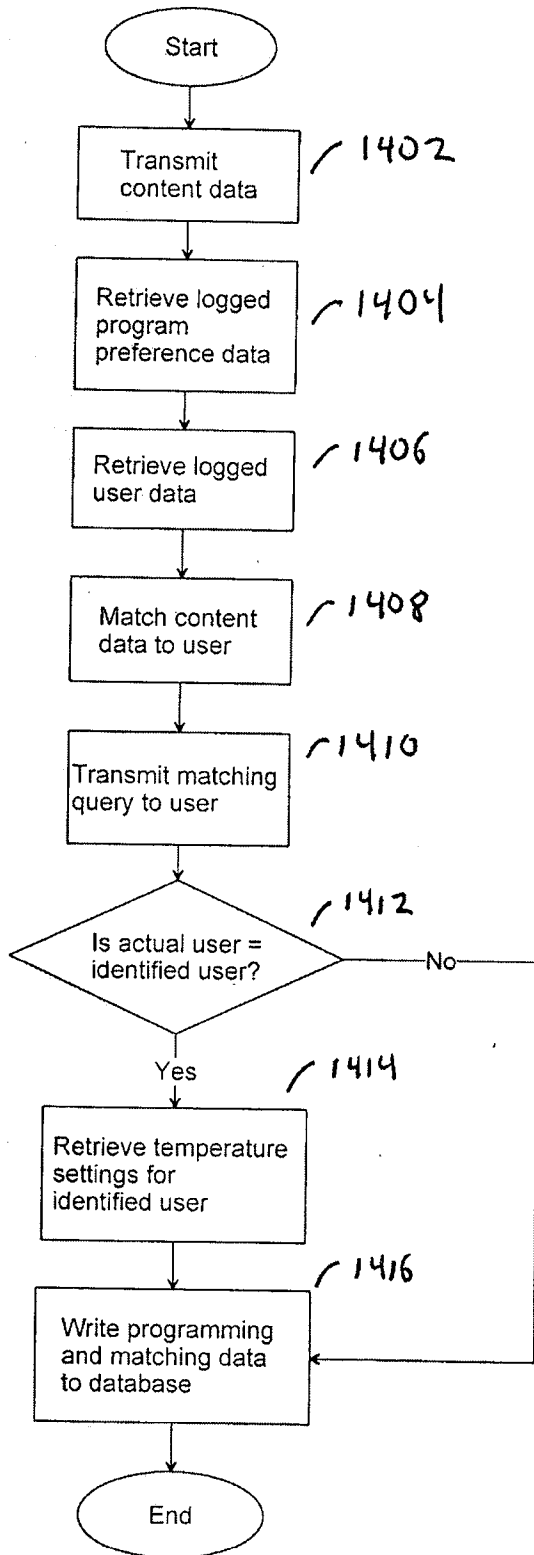


Fig 8



Electronic Acknowledgement Receipt

| | |
|---|--|
| EFS ID: | 5692168 |
| Application Number: | 12502064 |
| International Application Number: | |
| Confirmation Number: | 5514 |
| Title of Invention: | SYSTEM AND METHOD FOR USING A NETWORKED ELECTRONIC DEVICE AS AN OCCUPANCY SENSOR FOR AN ENERGY MANAGEMENT SYSTEM |
| First Named Inventor/Applicant Name: | John Douglas Steinberg |
| Customer Number: | 20995 |
| Filer: | John R. King/Alexandra Benitez |
| Filer Authorized By: | John R. King |
| Attorney Docket Number: | JSTEIN.011A |
| Receipt Date: | 13-JUL-2009 |
| Filing Date: | |
| Time Stamp: | 18:40:28 |
| Application Type: | Utility under 35 USC 111(a) |

Payment information:

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File Listing:

| Document Number | Document Description | File Name | File Size(Bytes)/ Message Digest | Multi Part /.zip | Pages (if appl.) |
|-----------------|------------------------|---------------------|--|------------------|------------------|
| 1 | Application Data Sheet | JSTEIN-011A_ADS.pdf | 242737 <small>3cf14cd923b219adbb555c62e009dbf1a9d b3c9e</small> | no | 4 |

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| 2 | | JSTEIN-011A_spec.pdf | 753309 | yes | 16 |
| | | | 8fb6dc16a0492cfa953e6e3be2139679bb86df4 | | |

Multipart Description/PDF files in .zip description

| Document Description | Start | End |
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| Specification | 1 | 12 |
| Claims | 13 | 15 |
| Abstract | 16 | 16 |

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| 3 | Drawings-only black and white line drawings | JSTEIN-011A_drawings.pdf | 214996 | no | 8 |
| | | | a29ca40086778e156761153ba219e03f10b8ed7d | | |

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If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

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If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

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If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

Filing Date: 07/13/09

Approved for use through 7/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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| PATENT APPLICATION FEE DETERMINATION RECORD | | | | | 12/502,064 | | |
|---|---|------------------------------------|---------------|-------------------------|-------------------------|---------------------|--|
| Substitute for Form PTO-875 | | | | | | | |
| APPLICATION AS FILED – PART I | | | | | | | |
| (Column 1) | | (Column 2) | | | SMALL ENTITY | | |
| OR | | | | | OTHER THAN SMALL ENTITY | | |
| FOR | NUMBER FILED | NUMBER EXTRA | | | RATE (\$) | FEE (\$) | |
| BASIC FEE (37 CFR 1.16(a), (b), or (c)) | N/A | N/A | | | N/A | 82 | |
| SEARCH FEE (37 CFR 1.16(k), (l), or (m)) | N/A | N/A | | | N/A | 270 | |
| EXAMINATION FEE (37 CFR 1.16(o), (p), or (q)) | N/A | N/A | | | N/A | 110 | |
| TOTAL CLAIMS (37 CFR 1.16(i)) | 22 | 2 | | | X\$26 | 52 | |
| INDEPENDENT CLAIMS (37 CFR 1.16(h)) | 2 | minus 3 = 0 | | | 110 | | |
| APPLICATION SIZE FEE (37 CFR 1.16(s)) | If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s). | | | | | | |
| MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j)) | | | | | | | |
| | | | | | 195 | | |
| | | | | | TOTAL | 517 | |
| | | | | | TOTAL | | |
| * If the difference in column 1 is less than zero, enter "0" in column 2. | | | | | | | |
| APPLICATION AS AMENDED – PART II | | | | | | | |
| (Column 1) | | (Column 2) | | (Column 3) | | | |
| OR | | | | SMALL ENTITY | | | |
| OR | | | | OTHER THAN SMALL ENTITY | | | |
| AMENDMENT A | CLAIMS REMAINING AFTER AMENDMENT | HIGHEST NUMBER PREVIOUSLY PAID FOR | PRESENT EXTRA | | RATE (\$) | ADDITIONAL FEE (\$) | |
| | Total (37 CFR 1.16(i)) | Minus | ** | = | X = | | |
| | Independent (37 CFR 1.16(h)) | Minus | *** | = | X = | | |
| | Application Size Fee (37 CFR 1.16(s)) | | | | | | |
| | FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j)) | | | | | | |
| | | | | | TOTAL ADD'T FEE | | |
| | | | | | TOTAL ADD'T FEE | | |
| (Column 1) | | (Column 2) | | (Column 3) | | | |
| OR | | | | SMALL ENTITY | | | |
| OR | | | | OTHER THAN SMALL ENTITY | | | |
| AMENDMENT B | CLAIMS REMAINING AFTER AMENDMENT | HIGHEST NUMBER PREVIOUSLY PAID FOR | PRESENT EXTRA | | RATE (\$) | ADDITIONAL FEE (\$) | |
| | Total (37 CFR 1.16(i)) | Minus | ** | = | X = | | |
| | Independent (37 CFR 1.16(h)) | Minus | *** | = | X = | | |
| | Application Size Fee (37 CFR 1.16(s)) | | | | | | |
| | FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j)) | | | | | | |
| | | | | | TOTAL ADD'T FEE | | |
| | | | | | TOTAL ADD'T FEE | | |
| * If the entry in column 1 is less than the entry in column 2, write "0" in column 3. ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20". *** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3". The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1. | | | | | | | |

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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