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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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13/662,663

10/29/2012

Kevin R. Imes

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EXAMINER

PATEL, RAMESH B

ART UNIT

PAPER NUMBER

2127

MAIL DATE

DELIVERY MODE

04/12/2013

PAPER

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.

Office Action Summary	Application No. 13/662,663	Applicant(s) IMES ET AL.	
	Examiner RAMESH PATEL	Art Unit 2127	

-- 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 29 October 2012.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ 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.
- 4) ☐ 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

- 5) ☒ Claim(s) 1-24 is/are pending in the application.
- 5a) Of the above claim(s) 1-11 and 24 is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 12-23 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

- 10) ☒ The specification is objected to by the Examiner.
- 11) ☒ The drawing(s) filed on 29 October 2012 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).

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:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ 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)
- 3) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 2) ☐ Information Disclosure Statement(s) (PTO-893)
- 4) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-11, drawn to a method of managing or controlling a site in mobile environment, classified in class 700, subclass 278.
 - II. Claims 12-23, drawn to a system comprising a thermostat and a communication module for communicating with mobile device and the location of the mobile device, classified in class 455, subclass 404.02.
 - III. Claim 24, drawn to a method for of managing energy use in a mobile environment, classified in class 700, subclass 297.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions group I, group II and group III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions group I is related to a method of managing or controlling a site in mobile environment and group II related to a system which comprising a thermostat and a communication module for communicating with mobile device and the location of the mobile device while the group III is related to a method for of managing energy use in a mobile environment.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

6. During a telephone conversation with Mr. Schomer, Bryan J. (Reg. No. 67,752) on 2/25/2013 a provisional election was made without traverse to prosecute the invention of Group II, claims 12-23. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-11 and 24 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

7. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

8. Claims 12-23 are presented for examination. Claims 1-11 and 24 are withdrawn from further consideration by the examiner as state above. Applicant is requested to cancel non-elected claims 1-11 and 24 in response to this office action.

Drawings/Specification

9. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “a thermostat including communication module”; “said thermostat having a proximity detection module”; “home mode” and “away mode” as claimed in claim 12, lines 2-5, 8; “the thermostat includes a generally round housing” as claimed in claim 13; “the housing includes a control mechanism configured to rotate clockwise and counterclockwise” as claimed in claim 14; “LCD display” as claimed in claims 15-18; must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Examiner has provided some examples and suggested applicant review all drawings and entire disclosure and make appropriate correction as required to drawings and/or specification to provide adequate description for related elements and/or parts of the drawings of the system as claimed in claims 12-23 as necessary.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate

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