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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
17/250,716	02/24/2021	Thomas Bruckmann	80808US004	6838

32692	7590	02/12/2024	

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EXAMINER
MINCHELLA, ADAM ZACHARY

ART UNIT	PAPER NUMBER
3794	

NOTIFICATION DATE	DELIVERY MODE
02/12/2024	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.

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	Application No.		Applicant(s)	
Office Action Summary	17/250,716		Bruckmann et al.	
	Examiner		**Art Unit**	**AIA (FITF) Status**
	Adam Z Minchella		3794	Yes

-- 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 <u>3</u> MONTHS 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 <u>02/24/2021</u>.
    ☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.
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) <u>1-20</u> is/are pending in the application.
    5a) Of the above claim(s) _____ is/are withdrawn from consideration.
6) ☐ Claim(s) _____ is/are allowed.
7) ☑ Claim(s) <u>1-20</u> 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 <u>allowable</u>, 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 <u>02/24/2021</u> 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).
  Certified copies:
    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)).

** 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/SB/08a and/or PTO/SB/08b)   4) ☐ Other: _____.
    Paper No(s)/Mail Date

DETAILED ACTION

1.   This action is pursuant to the claims filed on 02/24/2021. Claims 1-20 are pending. A

first action on the merits of claims 1-20 is as follows.

Notice of Pre-AIA or AIA Status

2.   The present application, filed on or after March 16, 2013, is being examined under the

first inventor to file provisions of the AIA.

Information Disclosure Statement

3.   The information disclosure statement (IDS) submitted on 04/27/2021 is in compliance

with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being

considered by the examiner.

Claim Objections

4.   Claim 8 is/are objected to because of the following informalities:

- Claim 8; "the first or second physiological indicator" should read "the first physiological

  indicator or a second physiological indicator" to increase clarity.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5.   The following is a quotation of 35 U.S.C. 112(b):

> (b) CONCLUSION.—The specification shall conclude with one or more claims particularly pointing
> out and distinctly claiming the subject matter which the inventor or a joint inventor regards as the
> invention.

The following is a quotation of 35 U.S.C. 112 (pre-AIA), second paragraph:

> 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.

6.   Claims 4 and 19 are rejected under 35 U.S.C. 112(b) or 35 U.S.C. 112 (pre-AIA), second

paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject

matter which the inventor or a joint inventor (or for applications subject to pre-AIA 35 U.S.C.

112, the applicant), regards as the invention.

7.   Claim 4 recites the limitation "a memory comprising instructions that when executed…".

This limitation is previously recited in independent claim 1. As such it is unclear if claim 4

intends to recite antecedent basis to the memory and instructions of claim 1 or recite a new

distinct memory and instructions. This claim will be interpreted to read "the memory comprising

instructions that when executed …"

8.   Claim 19 recites "the remote server". This limitation lacks antecedent basis. For

examination purposes, this limitation will be read as "a remote server".

Claim Rejections - 35 USC § 103

9.   The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness

rejections set forth in this Office action:

> A patent for a claimed invention may not be obtained, notwithstanding that the claimed invention is not
> identically disclosed as set forth in section 102, if the differences between the claimed invention and the
> prior art are such that the claimed invention as a whole would have been obvious before the effective
> filing date of the claimed invention to a person having ordinary skill in the art to which the claimed
> invention pertains. Patentability shall not be negated by the manner in which the invention was made.

10.   The factual inquiries for establishing a background for determining obviousness under 35

U.S.C. 103 are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.

3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or

nonobviousness.

11.   **Claim(s) 1-2, 5-6, 8, and 11-13 is/are rejected under 35 U.S.C. 103 as being**

unpatentable over DeSeve (U.S. PGPub No. 2018/0250159) in view of Frey (U.S. Patent No.

7,517,360).

12.   Regarding **claim 1,** DeSeve teaches **An apparatus for providing pressurized,**

thermally conditioned air (Apparatus 100 of Figs 2A-D; [0059-0060] disclosing pressurized

thermally conditioned air)**, comprising: a casing** (casing of controller 112)**; a first sensor input**

port adjacent to a portion of the casing and configured to receive a signal indicative of a

first physiological indicator ([0057] disclosing multi-input, multi-output; each sensor 120a has

a corresponding input and output port to casing in effector matrix 109a)**; a first sensor output**

port adjacent to a portion of the casing and configured to transmit the signal indicative of

the first physiological indicator ([0057] disclosing multi-input, multi-output; each sensor 120a

has a corresponding input and output port to casing in effector matrix 109a)**; a controller**

communicatively coupled to the first sensor input port, the first sensor output port, the

convective module (Fig 2a controller 112)**, the controller comprising one or more computer**

processors and a memory ([0034]) **comprising instructions that when executed by the one**

or more computer processors cause the one or more computer processors to: transmit the

first physiological indicator via the first sensor output port (Fig 6, processor transmits first

physiological indicator via first sensor output port)**; determine a first physiological indicator**

value from the first sensor input port (see Fig 6 obtain actual cutaneous temperature step)**;**

perform at least one operation in response to the determination of the first physiological

indicator value (Fig 6 steps to control effectors depending on determined physiological

indicator value). DeSeve further discloses that the use of convective air in heating/cooling

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