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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
96/000,004	12/28/2012	8,078,436 B2	290115.401C1RE	6101
500                      7590                      04/16/2014 SEED INTELLECTUAL PROPERTY LAW GROUP PLLC 701 FIFTH AVE SUITE 5400 SEATTLE, WA 98104			EXAMINER PROCTOR, JASON SCOTT	
			ART UNIT	PAPER NUMBER
			3992	
			MAIL DATE	DELIVERY MODE
			04/16/2014	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.

<b>Notice of Intent to Issue Ex Parte Reexamination Certificate</b>	<b>Control No.</b>	<b>Patent Under Reexamination</b>	
	96/000,004	8,078,436 B2 E	
	<b>Examiner</b>	<b>Art Unit</b>	<b>AIA (First Inventor to File) Status</b>
JASON PROCTOR	3992	No	

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

1.  Prosecution on the merits is (or remains) closed in this *ex parte* reexamination proceeding. This proceeding is subject to reopening at the initiative of the Office or upon petition. Cf. 37 CFR 1.313(a). A Certificate will be issued in view of
  - (a)  Patent owner's communication(s) filed: 25 October 2013.
  - (b)  Patent owner's failure to file an appropriate timely response to the Office action mailed: \_\_\_\_\_.
  - (c)  Patent owner's failure to timely file an Appeal Brief (37 CFR 41.31).
  - (d)  The decision on appeal by the  Board of Patent Appeals and Interferences  Court dated \_\_\_\_\_
  - (e)  Other: \_\_\_\_\_.
2. The Reexamination Certificate will indicate the following:
  - (a) Change in the Specification:  Yes  No
  - (b) Change in the Drawing(s):  Yes  No
  - (c) Status of the Claim(s):
    - (1) Patent claim(s) confirmed: \_\_\_\_\_.
    - (2) Patent claim(s) amended (including dependent on amended claim(s)): 1-42 and 46-56
    - (3) Patent claim(s) canceled: 43-45.
    - (4) Newly presented claim(s) patentable: 57-66.
    - (5) Newly presented canceled claims: \_\_\_\_\_.
    - (6) Patent claim(s)  previously  currently disclaimed: \_\_\_\_\_
    - (7) Patent claim(s) not subject to reexamination: \_\_\_\_\_.
3.  A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on \_\_\_\_\_.
4.  Note the attached statement of reasons for patentability and/or confirmation. Any comments considered necessary by patent owner regarding reasons for patentability and/or confirmation must be submitted promptly to avoid processing delays. Such submission(s) should be labeled: "Comments On Statement of Reasons for Patentability and/or Confirmation."
5.  Note attached NOTICE OF REFERENCES CITED (PTO-892).
6.  Note attached LIST OF REFERENCES CITED (PTO/SB/08 or PTO/SB/08 substitute).
7.  The drawing correction request filed on \_\_\_\_\_ is:  approved  disapproved.
8.  Acknowledgment is made of the priority claim under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All b)  Some\* c)  None of the certified copies have
    - been received.
    - not been received.
    - been filed in Application No. \_\_\_\_\_.
    - been filed in reexamination Control No. \_\_\_\_\_.
    - been received by the International Bureau in PCT Application No. \_\_\_\_\_.

\* Certified copies not received: \_\_\_\_\_.
9.  Note attached Examiner's Amendment.
10.  Note attached Interview Summary (PTO-474).
11.  Other: \_\_\_\_\_.

**All correspondence** relating to this reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of this Office action.

/JASON PROCTOR/  
Primary Examiner, Art Unit 3992

cc: Requester (if third party requester)

**NOTICE OF INTENT TO ISSUE**  
***EX PARTE* REEXAMINATION CERTIFICATE**

This Office Action addresses original patent claims 1-56 and newly presented claims 57-66 of US Patent No. 8,078,436 B2 issued to Pershing et al. (“the ‘436 Patent”). A Non-Final Office Action rejecting claims 1-56 was entered on 25 July 2013.

Patent Owner timely filed a response on 25 October 2013 (“PO Remarks”), including amendments to claims 1, 18, 36, 37, and 41; canceling claims 43-45; and presenting new claims 57-66; and submitting declarations under 37 CFR 1.132. Patent Owner also submitted an Information Disclosure Statement on 23 September 2013, 25 October 2013, and 21 March 2014.

For the reasons set forth below, claims 1-42 and 46-67 are patentable.

Claims 43-45 are anceled by Patent Owner amendment.

**I. Information Disclosure Statement**

With respect to the Information Disclosure Statements (PTO/SB/08A and 08B or its equivalent) filed on 18 July 2013, 23 September 2013, 25 October 2013, and 21 March 2014, the material has been considered with this action, the information cited thereon has been considered to the extent suggested in the MPEP. Note that MPEP §§ 2256 and 2656 indicate that degree of consideration to be given to such information will be normally limited by the degree to which the party filing the information citation has explained the content and relevance of the information.

Any duplicate citations noticed by the examiner have been lined through. Any citations where the Examiner cannot locate the corresponding document has been lined through. There

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may be errors in the citations, missing documents, or the documents bear no identification that corresponds to the listed citations.

## **II. Response to Remarks**

### **Rejection A. Claims 36-40 and 42-56 under 35 U.S.C. § 101**

These claims were rejected because the claimed invention was not limited to statutory subject matter. NF Action, p. 11. Patent Owner has amended the claim language to overcome the rationale given in the rejection. Accordingly, the previous Rejection A under 35 U.S.C. § 101 has been withdrawn in response to the amendments to claim 36.

### **Rejections B-I. Claims 1-56 were rejected under 35 U.S.C. § 103(a) as being unpatentable over EP 966 alone or in combination with Aerodach Website, Novak, Official Notice, or Admitted Prior Art**

Claim 1 has been amended to require “wherein the first aerial image provides a top plan view of the roof and the second aerial image provides an oblique perspective view of the roof, and are not a stereoscopic pair”.

Claim 18 has been amended to require “wherein the first aerial image provides a top plan view of the roof and the second aerial image provides a view of the roof that is other than a top plan view and neither of the two images are part of a stereoscopic pair”.

Claim 36 has been amended to require “wherein at least one of the two or more images provides an oblique perspective view of the roof and one of the images provides a top plan view of the roof”.

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Patent Owner submits:

EP 966 does not teach or suggest a roof estimation system “wherein the first aerial image provides a top plan view of the roof and the second aerial image provides an oblique perspective view of the roof, and are not a stereoscopic pair.”

Instead, in the ‘966 Patent, the images are taken and received as a stereoscopic pair and the raw data comes already matched as a stereoscopic pair. The images in a stereoscopic pair are not taken independently of each other, as they include geometric image data and parameter data that contain highly detailed information on the camera angle of the image pairs with respect to each other (see paragraph 2 of EP 966).  
(PO Remarks, p. 14)

This argument has been fully considered and found persuasive.

The claims, as amended, recite a combination of features that are neither taught nor suggested by the cited prior art. EP 966 relies upon stereoscopic images, *i.e.*, two images having substantially identical views or perspectives of the roof. Accordingly, previous Rejections B-I are withdrawn. Patent Owner’s other remarks are considered moot.

Therefore claims 1-42 and 46-56 are patentable.

### **III. Statement of Reasons for Patentability and/or Confirmation**

The following is an examiner's statement of reasons for patentability and/or confirmation of the claims found patentable in this reexamination proceeding:

Claim 1 has been amended to require “wherein the first aerial image provides a top plan view of the roof and the second aerial image provides an oblique perspective view of the roof, and are not a stereoscopic pair”.

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Claim 18 has been amended to require “wherein the first aerial image provides a top plan view of the roof and the second aerial image provides a view of the roof that is other than a top plan view and neither of the two images are part of a stereoscopic pair”.

Claim 36 has been amended to require “wherein at least one of the two or more images provides an oblique perspective view of the roof and one of the images provides a top plan view of the roof”.

New claim 58 requires:

- receiving a first aerial image of a building having a type of view of the roof that is a top plan view of the roof;
- receiving a second aerial image of the building having a type of view of the roof that is a perspective oblique view of the roof;
- receiving a third aerial image having a type of view of the roof that is an oblique perspective from a different direction than the second aerial image, each of the aerial images providing a different view of the roof of the building;

New claim 60 requires:

- receiving a first aerial image of a building;
- receiving a second aerial image of the building having the roof;
- receiving a third aerial image of the building, each of the aerial images providing a different view of the roof of the building;

New claim 63 requires “the first and second images of the roof being independent of each in the views provided of the roof, each of the aerial images providing a different view of the roof of the building”.

As discussed above, the closest cited prior art is EP 966 which relies upon stereoscopic images. Accordingly, each independent claim recites a combination of features that are neither taught nor suggested by the cited prior art.

Dependent claims 2-17, 19-35, 37-42, 46-57, 59, 61-62, and 64-66 are patentable at least because they inherent the features of the independent claims noted above.

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Any comments considered necessary by PATENT OWNER regarding the above statement must be submitted promptly to avoid processing delays. Such submission by the patent owner should be labeled: "Comments on Statement of Reasons for Patentability and/or Confirmation" and will be placed in the reexamination file.

#### IV. Conclusion

Claims 1-42 and 46-67 are patentable.

Claims 43-45 are canceled by Patent Owner amendment.

#### SERVICE OF PAPERS

Any paper filed by either the patent owner or the third party requester must be served on the other party in the reexamination proceeding in the manner provided by 37 CFR 1.248. See 37 CFR 1.903 and MPEP 2666.06.

All correspondence relating to this *inter partes* reexamination proceeding should be directed as follows:

By U.S. Postal Service Mail to:  
Mail Stop *Inter Partes* Reexam  
ATTN: Central Reexamination Unit  
Commissioner for Patents P.O. Box 1450  
Alexandria, VA 22313-1450

By FAX to: (571) 273-9900  
Central Reexamination Unit

By hand to: Customer Service Window  
Randolph Building  
401 Dulany St.

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Alexandria, VA 22314

By EFS-Web:

Registered users of EFS-Web may alternatively submit such correspondence via the electronic filing system EFS-Web, at

<https://efs.uspto.gov/efile/myportal/efs-registered>

EFS-Web offers the benefit of quick submission to the particular area of the Office that needs to act on the correspondence. Also, EFS-Web submissions are "soft scanned" (i.e., electronically uploaded) directly into the official file for the reexamination proceeding, which offers parties the opportunity to review the content of their submissions after the "soft scanning" process is complete.

Any inquiry concerning this communication or earlier communications from the Reexamination Legal Advisor or Examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7705.

/Jason Proctor/  
Primary Examiner, AU 3992

Conferees:  
/EBK/

/ALEXANDER KOSOWSKI/  
Supervisory Patent Examiner, Art Unit 3992