

From: Keeley, Alison

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Subject: U.S. TRADEMARK APPLICATION NO. 86196858 - SMARTAISLE - 6499-200096- - Request for Reconsideration Denied - Return to TTAB

Attachment Information:

Count: 12

Files: 6-24-2015 11-52-17 AM.jpg, 6-24-2015 11-52-38 AM.jpg, 6-24-2015 11-52-57 AM.jpg, 6-24-2015 11-53-10 AM.jpg, 6-24-2015 11-53-18 AM.jpg, 6-24-2015 11-53-30 AM.jpg, 6-24-2015 11-53-45 AM.jpg, 6-24-2015 11-53-53 AM.jpg, 6-24-2015 11-54-10 AM.jpg, 6-24-2015 11-54-43 AM.jpg, 6-24-2015 11-54-51 AM.jpg, 86196858.doc

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

U.S. APPLICATION SERIAL NO. 86196858

MARK: SMARTAISLE



CORRESPONDENT ADDRESS:

LISA M DUROSS

HARNESS DICKEY & PIERCE PLC

5445 CORPORATE DR STE 200

TROY, MI 48098

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/trademarks/index.jsp>

[VIEW YOUR APPLICATION FILE](#)

APPLICANT: Liebert Corporation

CORRESPONDENT'S REFERENCE/DOCKET NO:

6499-200096-

CORRESPONDENT E-MAIL ADDRESS:

docketingTM@hdp.com

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 6/24/2015

This Office Action is in response to applicant's Request for Reconsideration, filed June 8, 2015. The applicant also filed a Notice of Appeal on June 8, 2015.

In the previous Office Action, dated December 8, 2014, the examining attorney issued a final refusal pursuant to Section 2(e)(1) of the Trademark Act due to the Mere Descriptiveness of the

mark. The examining attorney also issued a final requirement to amend the Identification of Goods.

In the Request for Reconsideration the applicant amended the Identification of Goods. Applicant also states that it is assessing the feasibility of filing an Allegation of Use and amending to the Supplemental Register, and requests that the examining attorney withdraw the Section 2(e)(1) Refusal.

The trademark examining attorney has carefully reviewed applicant's request for reconsideration and is denying the request for the reasons stated below. See 37 C.F.R. §2.63(b)(3); TMEP §§715.03(a)(ii)(B), 715.04(a).

The following refusal made final in the Office action dated December 8, 2015 is ***maintained and continues to be final***:

- Section 2(e)(1) Refusal – Merely Descriptive

See TMEP §§715.03(a)(ii)(B), 715.04(a).

The following requirement made final in the Office Action is ***satisfied***:

- Identification of Goods Amendments Required

See TMEP §§715.03(a)(ii)(B), 715.04(a).

SECTION 2(e)(1) REFUSAL – MERELY DESCRIPTIVE

For the reasons stated in the December 8, 2014 Office Action, the Section 2(e)(1) Refusal is ***maintained and continued to be final***.

The examining attorney also attaches the additional evidence below, demonstrating that the wording SMARTAISLE or "SMART AISLE" is commonly used to indicate that goods are automatic or

programmable and are used as part of a computer server aisle or to control the temperature of computer equipment aisles. See <http://tti.tamu.edu/conferences/tsc12/program/presentations/strategic-projects/villanueva.pdf> (presentation discussing data center design stating “Smart-aisle containment system” provides two redundant networked cooling units to circulate airflow directly at data center equipment and regulate temperature as needed per rack.’); http://www.bala.com/sites/default/files/presentations/SmarterBuildingsWebinar_datacentercooling.pdf (presentation on how to cut data center cooling costs discussing “Smart Aisle Cooling”); <https://forums.digitalpoint.com/threads/dedicated-server-special-33-off-4-life-32-gb-xeon-199-ipad-giveaway-contest.2538449/> (ad for a data center stating “offering on-site solar power generation, Cold Containment Pods, and smart aisle cooling technology to make for the most energy efficient datacenter of its size anywhere!”); <http://npolargy.devenertia.com/> (discussing a data center stating “Smart aisle containment design keeps costs low and speeds deployment”). Therefore, SMART AISLE merely describes a feature or characteristic of applicant’s goods, specifically, that they are automated or programmable goods designed to be part of or control the temperature of data center aisles or computer equipment aisles.

Applicant states that it is “assessing the feasibility of filing an Allegation of Use and resultantly amending this application to the Supplemental Register.” The examining attorney notes that the filing of an Amendment to Allege Use and amending the mark to the Supplemental Register would be an appropriate response to this refusal.

Response Guidelines

In the present case, applicant’s request has not resolved all the outstanding issues, nor does it raise a new issue or provide any new or compelling evidence with regard to the outstanding issue in the final Office action. In addition, applicant’s analysis and arguments are not persuasive nor do they shed new light on the issues. Accordingly, the request is denied.

If applicant has already filed a timely notice of appeal with the Trademark Trial and Appeal Board, the Board will be notified to resume the appeal. See TMEP §715.04(a).

/Alison R. Keeley/

Examining Attorney

Law Office 113

(571) 272-4514

Alison.Keeley@uspto.gov



Enterprise Solutions to Privatizing

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Buda, Tx 78610

SH 130 Concession Company, LLC

Confidential

1

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SH130

SH130 is a 40-mile toll through Texas, Oklahoma and Oklahoma counties for 10 years. Once completed, SH130 will be able to transport heavy loads from north of Austin to San Antonio.

TxDOT Control Center Austin

Disaster Recovery Site

Data Center / Traffic Management Center Mustang Ridge, Tx

SH130



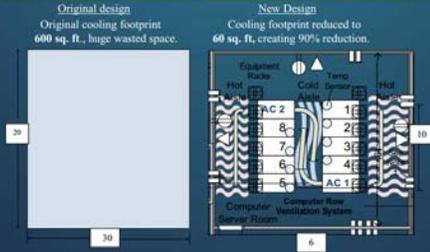
Data Center & Infrastructure design



Efficient

Efficient cooling

"Smart-aisle containment system" provides two redundant networked cooling units to circulate airflow directly at data center equipment and regulate temperature as needed per rack.
Benefit: Reduced "cooling footprint" provides more efficient cooling and reduces Opex costs.



SH 130 Concession Company, LLC

Confidential

4

Data Center & Infrastructure design



Reliable: Redundant power and data storage

Power Management - 3 Tiers

- a) Commercial power - primary source of power.
- b) UPS provides 15 minutes backup for data center and traffic management center.
- c) Backup generators at Admin building and toll sites provide indefinite backup.

Data Redundancy - 3 Tiers

- 1) Stored at roadside Tip
- 2) Stored at data center
- 3) Stored at Remote disaster recovery facility for "hot" backup in the event of catastrophic failures.

How to Cut Your Data Centers Cooling Costs



Charles B. Kensky, PE, LEED AP BD+C, CEA
Executive Vice President
Bala Consulting Engineers



Overview

- Data Center Optimization

http://www.bala.com/sites/default/files/presentations/SmarterBuildingsWebinar_datacentercooling.pdf



Data Center Optimization

- UPS Sizing (efficiency drops as the load drops)
 - 96% Efficiency 90% Efficiency
 - 1,000kW 30 KW (at \$0.10/kWH = \$26k/year, plus cooling)
- Cooling Plant Sizing
- Air Cooled DX Systems
 - Partial load efficiency drops with reduced loads
 - Moving more air than required
 - Lower return air temperatures – reduced capacity
- Airflow Optimization
 - Deliver required quantity and temperature of air to servers
 - Balance air flows & pressure via CFD analysis, VFDs
 - Some programs do automatically
 - Reduce air flow by 10% - Reduces fan HP by 40%
 - Smart Aisle Cooling

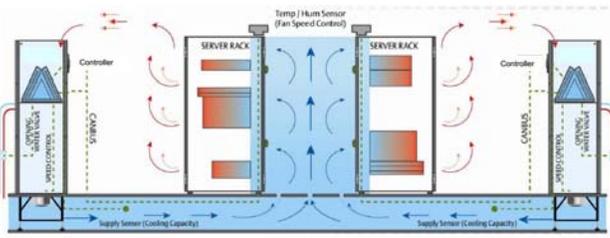


Smart Aisle Cooling



http://www.bala.com/sites/default/files/presentations/SmarterBuildingsWebinar_datacentercooling.pdf

Smart Aisle Cooling



ASHRAE Chart



- Inlet Server Conditions
- Allows Longer Free Cooling Hours
- Reduces Humidification Needs & Water Usage

http://www.bala.com/sites/default/files/presentations/SmarterBuildingsWebinar_datacentercooling.pdf

Sort By Bottom @Maxvits Hello, Jerry! Setfield is Now Streaming on Hulu. Put on a puffy shirt, grab some chocolate Babika, and get in... [H3c0n0r/310yWQz](#)

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Join TurnKey's Social Media Challenge to reveal the 33% off for life coupon code!

turnkey19191919
Active Member

Messages: 16
 Likes Received: 0
 Bad Reviews: 0
 Threads Posted: 16
 As Seen: 100% - 0
 As Banned: 100% - 0

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Host in our New York **Green datacenter** - offering **on-site solar power generation**, Cold Containment Pods, and smart aisle cooling technology to make for the most energy efficient datacenter of its size anywhere!

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- Intel Xeon X3440 CPU @ 2.53 GHZ
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- 32 GB Ram
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- 5,000 GB Bandwidth (2,500 GB in + 2,500 GB out)
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- Free Web Reboot Port
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<https://forums.digitalpoint.com/threads/dedicated-server-special-33-off-4-life-32-gb-xeon-199-ipad-giveaway-contest-2538449/>

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- 16 GB Ram
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- Choice of Linux or Windows Operating Systems (Windows is extra cost)
- Free Web Reboot Port
- 1 IP Address (/30 on Cisco Dedicated Port, with your own gateway)
- 100% network uptime guarantee
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- 30-day money back guarantee
- NO term contract (month to month)

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FAQs

What payment methods do you accept?
All major credit cards including VISA, MasterCard, American Express, Discover, VISA/MC debit cards. We also accept Paypal, Paypal e-Check, Moneybookers and Google Checkout.

Is there a Speed Test Download File?
Yes! <http://www.turnkeyinternet.net/50mbtestfile.bin>

How soon will my account be ready?
All new orders are subject to approval by our billing department and may require additional details to process your order. Orders are provisioned within 1 to 3 business days if your order is placed, paid and approved by the billing department prior to 1 PM (EST). We do offer expedited emergency provisioning in our order form if you need to move from your current provider today.

Any Content Restrictions?
Please see our terms of service for complete details at: <http://www.turnkeyinternet.net/doc/TermsOfService.php> No bulk email services, no proxies, no warez/linking. Legal Adult content permitted on Dedicated servers only.

How are your prices so low?
While it may seem incredible to offer these amazing prices and discounts - the reality is that in the Datacenter and cloud hosting business, the cost of electricity is the largest expense. With our new On-site solar power system, we produce our own energy, and what energy we use in excess of that comes from clean renewable Hydro Electric power sourced from Niagara Falls, in New York at a substantially reduced cost for power compared to traditional datacenters. Our other green technology investments, such as Smart Aisle precision cooling, and Cold Containment Systems - provides a further 33% efficiency over traditional datacenters further reducing our electricity utilization, all adding up to a lower impact to the environment, and lower cost of providing the reliable services we deliver to you. We own and operate our own facility, servers, routers, and network connections. We are not resellers, or wholesalers - and thus we do not have the higher operating costs of renting servers and equipment which allows us to pass down the savings to our customers.

Where are the servers located?
These specials are available in our GREEN New York, US datacenter.

Do you have a money back guarantee?
Yes, a 30 day no questions asked money back is available to all new customers.

What Hardware do you use?
We only use 100% Genuine enterprise-class servers, owned by us and hosted in our own datacenter located in New York. Our servers are fully optimized and loaded with the latest operating system and patches you select at check out.

Do you provide backups?
We offer fully automated bare-metal backups via our R1soft backup system. Depending on which package or service plan you select, this may be included or a low cost optional upgrade. The R1Soft baremetal CDP remote backup system offers full snapshot, versioning, roll-back and bare metal restore capabilities via an easy to use web interface for secure and fully automated access to your backups.

Why Host with TurnKey Internet?
TurnKey Internet provides superior hosting performance at affordable prices, backed with bulletproof reliability and a [100% network uptime guarantee](#). We offer the latest in technology, including Green based renewable power produced on-site at our Green Datacenter. Fully managed services provide you with peace of mind with off site backups, firewall setup, and 24 x 7 system administration support. TurnKey Internet is a member of the Better Business Bureau of New York, with the [highest possible rating of A+](#).

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Smart aisle containment design keeps costs low and speeds deployment

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We Keep the Cloud Cool™

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HOT AISLE CONTAINMENT



Hot Aisle Containment

COLD AISLE CONTAINMENT



Cold Aisle Containment

SUCCESS STORIES

“ Verizon deployed Polargy cold aisle containment across 12 data centers comprising almost 1 million square feet. They decreased their data center energy usage by 7.7 percent and captured 18.8 million kilowatt hours (KWh) of annualized energy savings. ”

HOT AISLE CONTAINMENT



Hot Aisle Containment
Containing the hot aisle is clearly the trend in new data center construction for the enterprise segment.
[READ MORE >](#)

COLD AISLE CONTAINMENT



Cold Aisle Containment
Containing the cold aisle has been the most common approach for energy efficiency retrofits and many colocation and wholesale providers.
[READ MORE >](#)

SUCCESS STORIES

" Verizon deployed Polargy cold aisle containment across 12 data centers comprising almost 1 million square feet. They decreased their data center energy usage by 7.7 percent and captured 18.8 million kilowatt hours (kWh) of annualized energy savings."

OUR BLOG – THE CONTAINMENT CHRONICLES



Top Tips: Data Center Maintenance

May 14, 2014

Keeping data centers cool, clean, and operating efficiently can be difficult, especially during spring and summer months when temperature and humidity levels rise. Proper maintenance of your data center will not only ensure flawless operation, but ...

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A little levity from Diane Alber

May 06, 2014

I had the pleasure of meeting perhaps the industry's only data center comic writer Diane Alber at the AFCCOM Data Center World event last week. Diane is the creator and writer of the Rip and Gary Data Center comic and ...

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info@polargy.com