

# Rethinking Demonstrative Evidence in the Real World

Wednesday, June 4, 2014

Presented By the IADC Trial Techniques and Tactics Committee

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- If you are on a conference phone, please move all cellular or wireless devices away from the conference phone to avoid audio interference.
- If you have questions during the presentation, you may utilize the Q&A pod on the upper-right-hand side of your screen. You may type questions here and it will be sent to the presenter for response. If your question is not answered during the presentation, our presenter will answer questions at the end of the webinar.
- Visit the “Files” pod in the lower-right-hand corner of the screen if you would like to download a copy of this PowerPoint presentation.

The image shows a screenshot of an Adobe Connect meeting interface. The browser address bar at the top displays the URL: [https://iadc.adobeconnect.com/\\_a1101933513/r13152pj8pi/?launcher=false](https://iadc.adobeconnect.com/_a1101933513/r13152pj8pi/?launcher=false). The interface includes a top navigation bar with 'Meeting' and 'Help' buttons, and a main content area divided into a 'Share' section and a 'Q & A' section. A 'Files' panel is visible at the bottom right, containing a table with columns for 'Name' and 'Size'. Two blue callout boxes with arrows provide instructions: one points to the Q & A section, and the other points to the Files panel.

Warning! Slippery Experts x

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Google Maps Time Zone Converte... Microsoft Office Liv... IADC - International ... Campaigner Email ... iadclaw | Home Anywhere Conferen... Adobe Connect Cen... CB435A | Staples®

Adobe Meeting [Icons] Help

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Q & A [Menu]

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Files [Menu]

Name	Size

Download File(s)



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# Presenter



**Jennifer Haltom Doan**

*Haltom & Doan*

*Texarkana, TX*

[jdoan@haltomdoan.com](mailto:jdoan@haltomdoan.com)

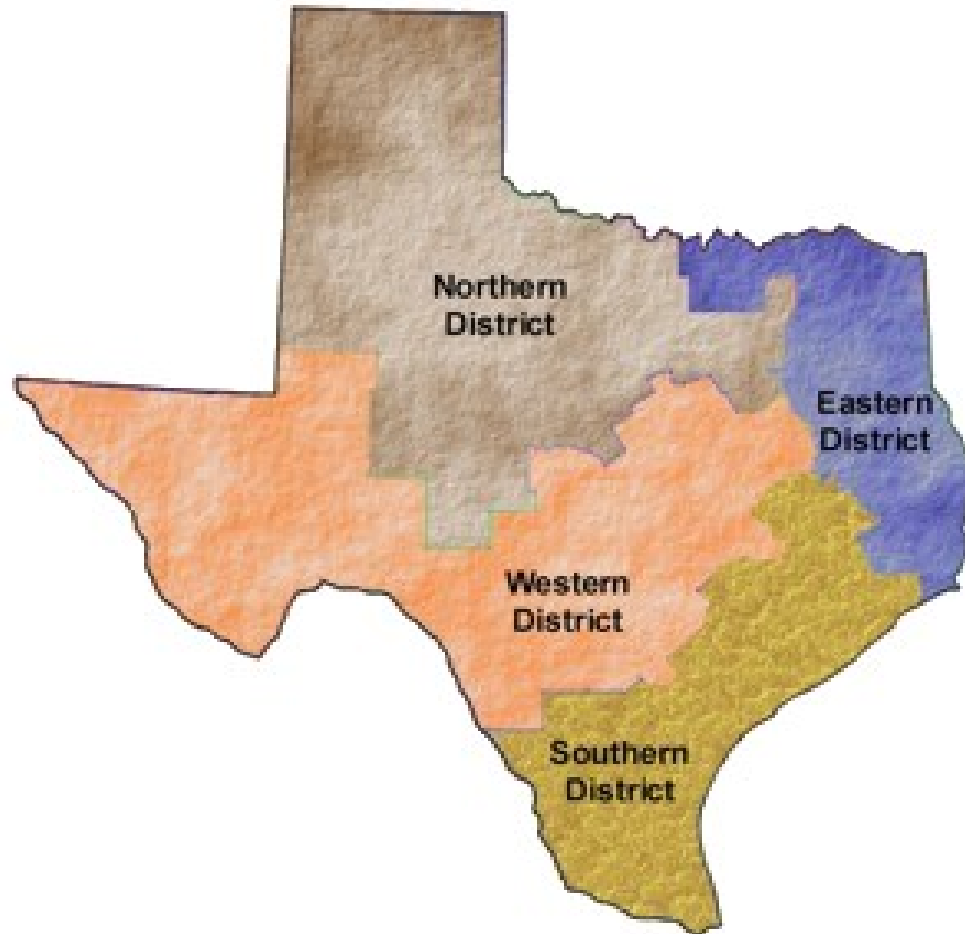
# Great Demonstrative Evidence

# Know the Judge

# Great Demonstrative Evidence

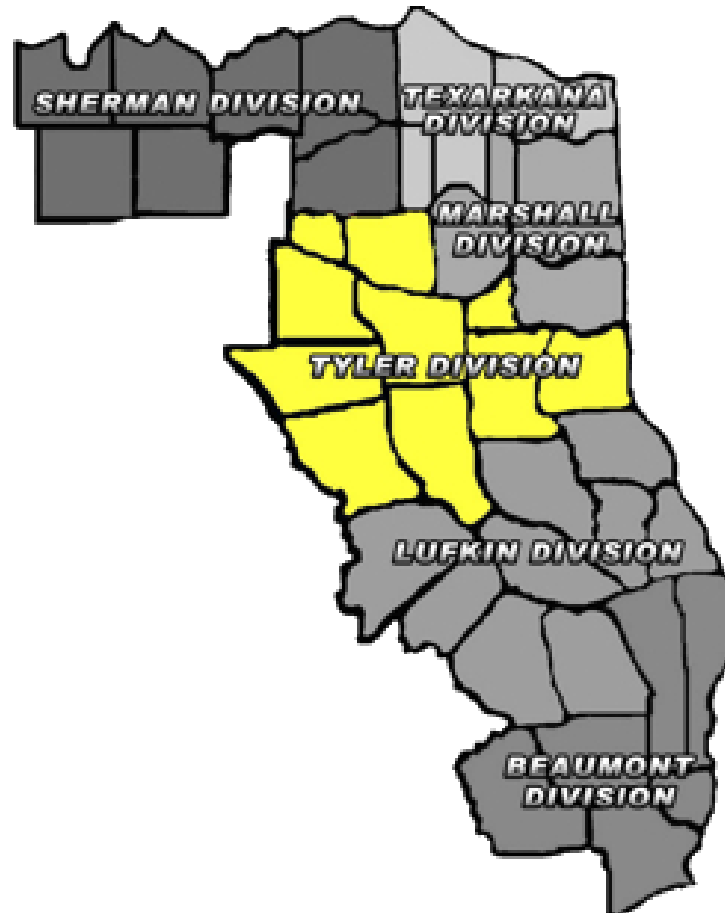
## Know the Potential Jurors

# Know the Potential Jurors





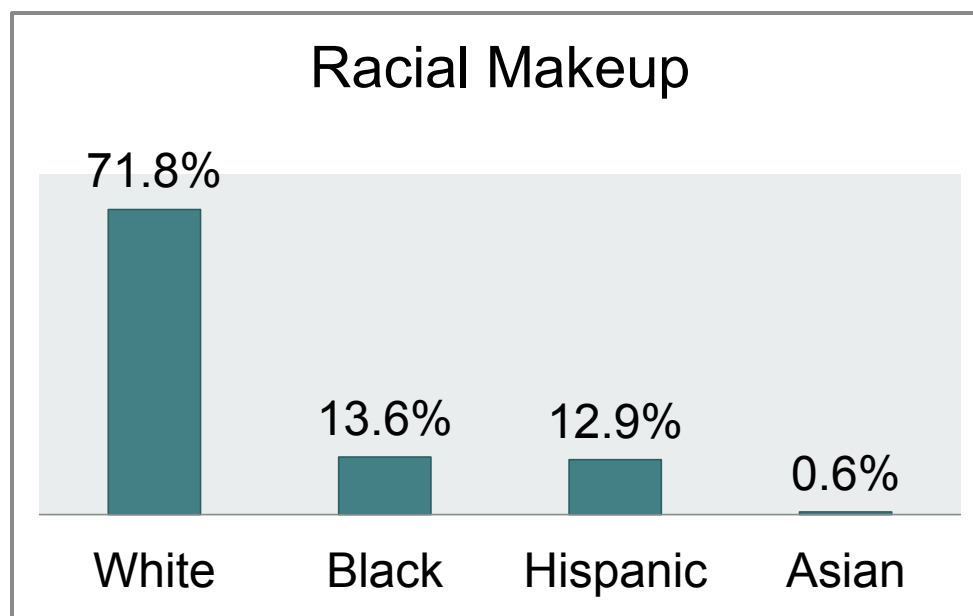
# Know the Potential Jurors



# Know the Potential Jurors

## TYLER DIVISION

- Median Household Income - \$43,411
  - High School Graduates – 80.5%
  - Bachelors Degree – 14.9%



# Know the Potential Jurors

## Juror Questionnaire

**JUROR QUESTIONNAIRE**

Juror No. \_\_\_\_\_

1. Name \_\_\_\_\_ Age: \_\_\_\_\_  Male  Female
2. What is the last level of education you completed:  Less than High School  High School/GED  
 Some College/Technical  Associates Degree  College Degree  Advanced Degree
3. What were your areas of study or training after high school? \_\_\_\_\_
4. What is your current marital status?  Single  Married  Divorced  Divorced, but remarried  Widowed
5. Spouse's Name: \_\_\_\_\_ Spouse's Employer: \_\_\_\_\_
6. What is your current employment status? (Check all that apply)  
 Full-time  Part Time  Self-employed  Full-time homemaker  Unemployed, not looking for work  
 Unemployed, looking for work  Disabled/Worker's Compensation  Retired  Student
7. Please list your employment history for the past three jobs (continue on back of paper if needed). If you own or owned a business, please also state the number of employees: \_\_\_\_\_

- 10. Do you have any special training, education, or experience in the following areas? [Check all that apply]**
- Accounting  Computer software or programming  Law/Law enforcement  Patents  Banking  
 Computer hardware  Web site design  Internet security  Business  Engineering

11. Do you use your computer/internet for: [Check all that apply]  Email  Shopping  Work  
 Searching for information  Other \_\_\_\_\_
  13. If you have served as a juror, describe what was/were the case(s) about and whether you were the foreperson/presiding juror: \_\_\_\_\_
  14. Have you or any immediate family member ever: Been a witness in court?  Yes  No Filed a lawsuit:  Yes  No Been sued?  Yes  No If yes to any of the above, please describe what kind of lawsuit and what was the outcome: \_\_\_\_\_
  15. Do you consider yourself:  Detailed oriented  Big picture person  Both  Neither
  16. a. Have you ever created or developed an idea or new technology?  Yes  No  
b. Have you or someone you know considered filing for a patent?  Yes  No  
c. Has someone taken an idea of yours without permission?  Yes  No  
d. Have you ever been wrongfully accused of taking the idea of someone else?  Yes  No  
If yes to any of the above, please describe: \_\_\_\_\_
  17. Have you ever worked for or owned a company that owns patents?  Yes  No  
If yes, which company(ies) \_\_\_\_\_
- Your Signature: \_\_\_\_\_ Date Signed: \_\_\_\_\_

# Know the Potential Jurors

Voir Dire

**What number below best describes your opinion of **Yahoo!** and its website?**

**0   1   2   3   4   5   6   7   8   9   10**

**Strongly Like**

**Neutral**

**Strongly Dislike**

**I believe that small companies aren't able to take unfair advantage of large companies.**

Agree

Disagree

# Know the Potential Jurors - Strategically

## Good for the Client

- Date of patent
- Prior art
- Laches facts
- No notice of lawsuit
- Interesting
- Blindsided

## Bad for the Client

- Large company
- Bureaucratic
- Not relate to jury
- Corporate policies
- Responsiveness after event



# Tell the Story

# Tell the Story

# Timeline

**1994**  
Amazon Is Founded

**1994**  
Invention of Music  
Recommendations

**July 1995**  
Launch of Amazon.com

**September 1997**  
Amazon Launches  
New Recommendation Center

94

95

96

97

98

99

00

01

**October 1995**  
Patent Filed

**December 1997**  
Lawyers Rewrote the  
Patent Claims

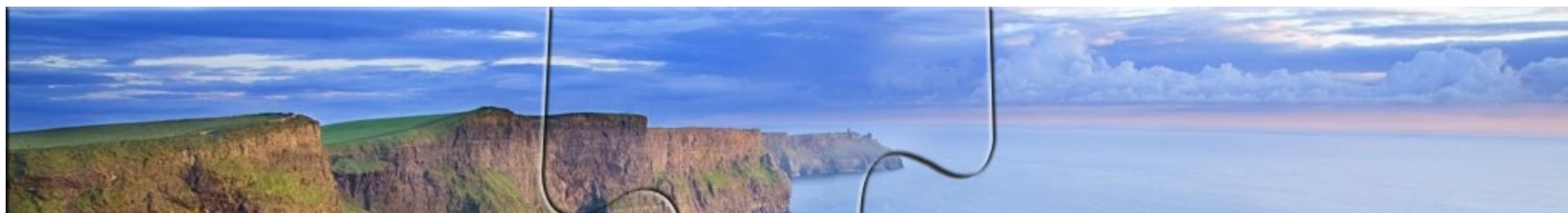
**June 10, 1997**  
U.S. Patent Office  
Rejects Patent

**May 23, 2000**  
The Patent Is  
Issued

**1999**  
Mr. Smith Left the  
Company

# Tell the Story

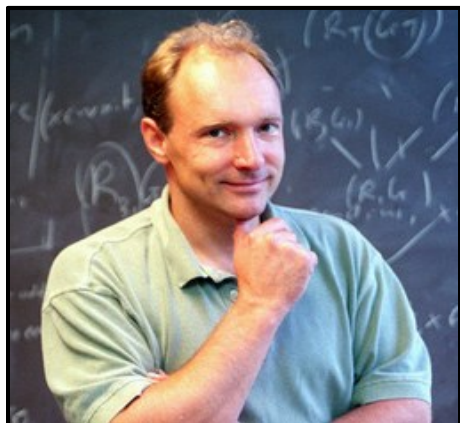
# Paint a Picture





# Use Pictures

# Use Pictures



**Tim Berners-Lee**



**Pei Wei**



**Dave Raggett**



**Eric Bina**



**David Filo**



**Scott Silvey**





**HALTOM & DOAN**  
TRIAL & APPELLATE COUNSEL

# No Infringement Unless Every Claim Limitation Is Found

## Patented Product



### Patent Claim Limitations

- Four tires
- Steering wheel
- Four doors
- Flatbed

## Accused Product



### Accused Product Features

- ✓ Four tires
- ✓ Steering wheel
- ✓ Four doors
- ✗ **No flatbed**

**NO INFRINGEMENT**

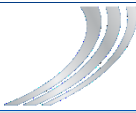
# Use Video

# Use Video

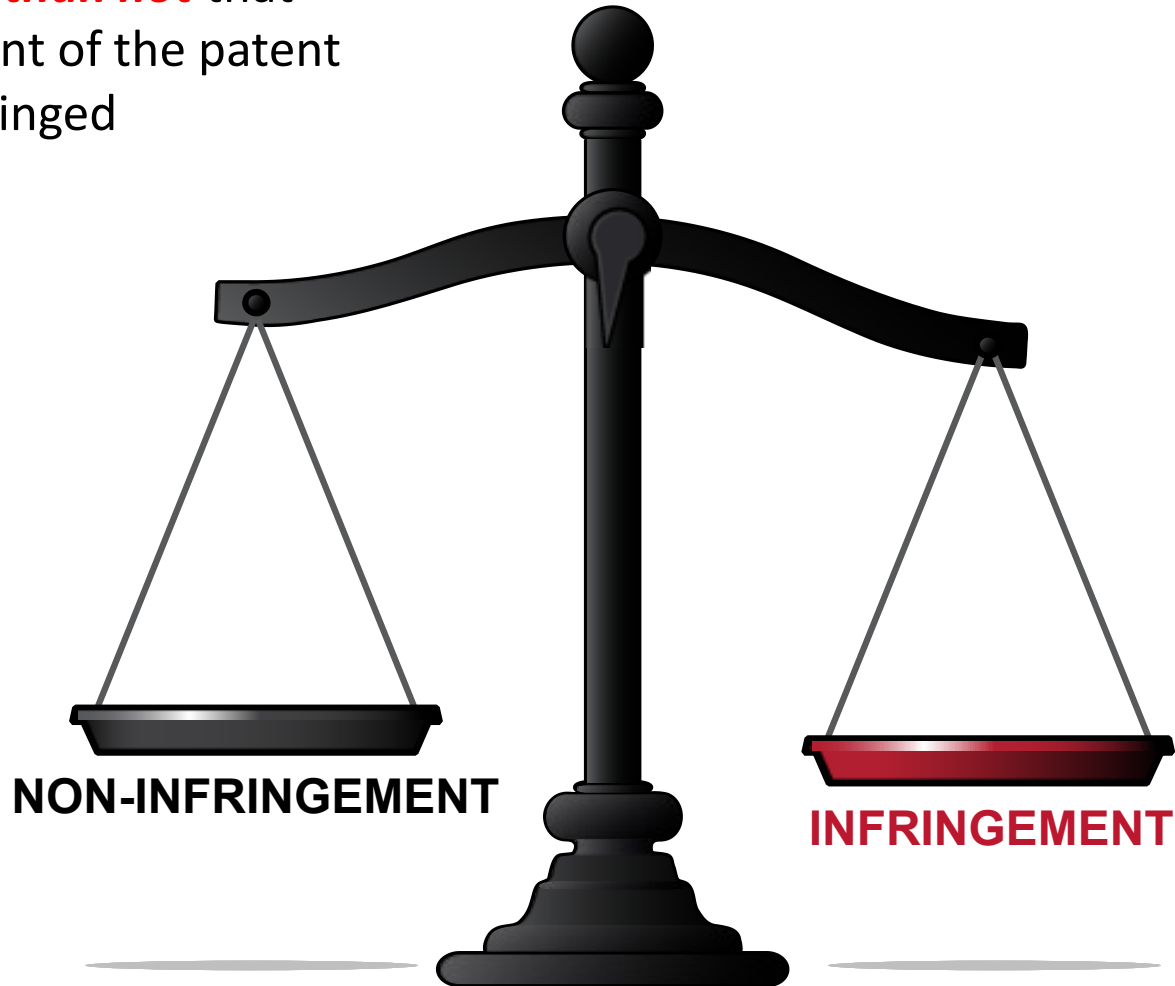
# Visit Your Client

# Use Animation

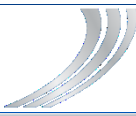
# Infringement: Preponderance of the Evidence



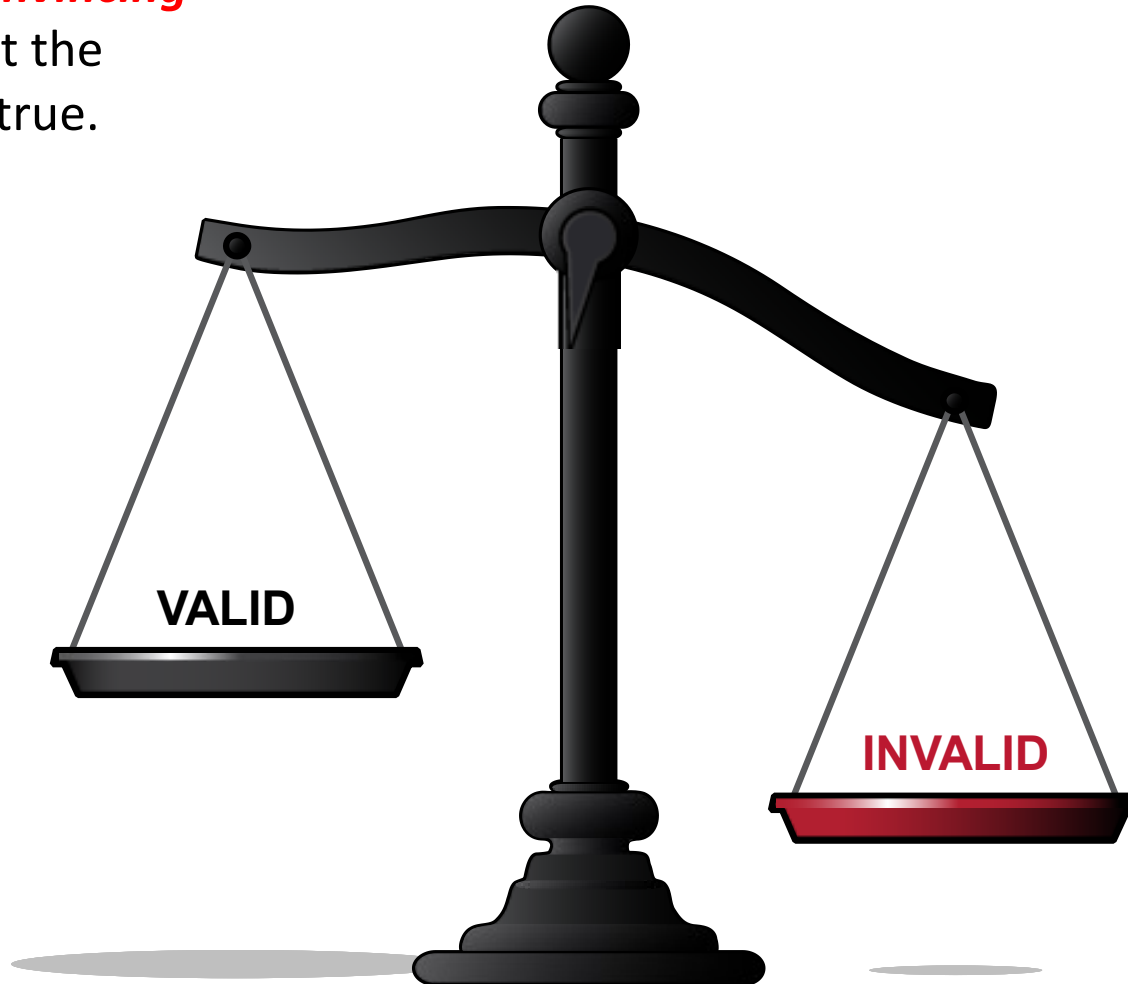
The patent holder has the burden to prove that it is **more likely than not** that each element of the patent claim is infringed



# Invalidity: Clear and Convincing Evidence – A Higher Standard



The party asserting  
invalidity must provide  
***Clear and Convincing  
Evidence*** that the  
allegation is true.





alesperson meeting with a current

he custo  
manager  
ew add  
abase.

e custo  
e data i  
er 201  
to autom  
manage  
at the da  
on by

delivery address  
updated

son can confirm that the updated  
d in other parts of the system. For  
nquire under control of the event  
ge in address requires a change in

the delivery address for an order. If the new address should  
be used for the delivery, the change order subcomponent  
module **506** is initiated with the new information reflected  
and a command is given to update the delivery address  
information in the order. Thus, the order will now reflect the  
proper address information ensuring proper delivery.

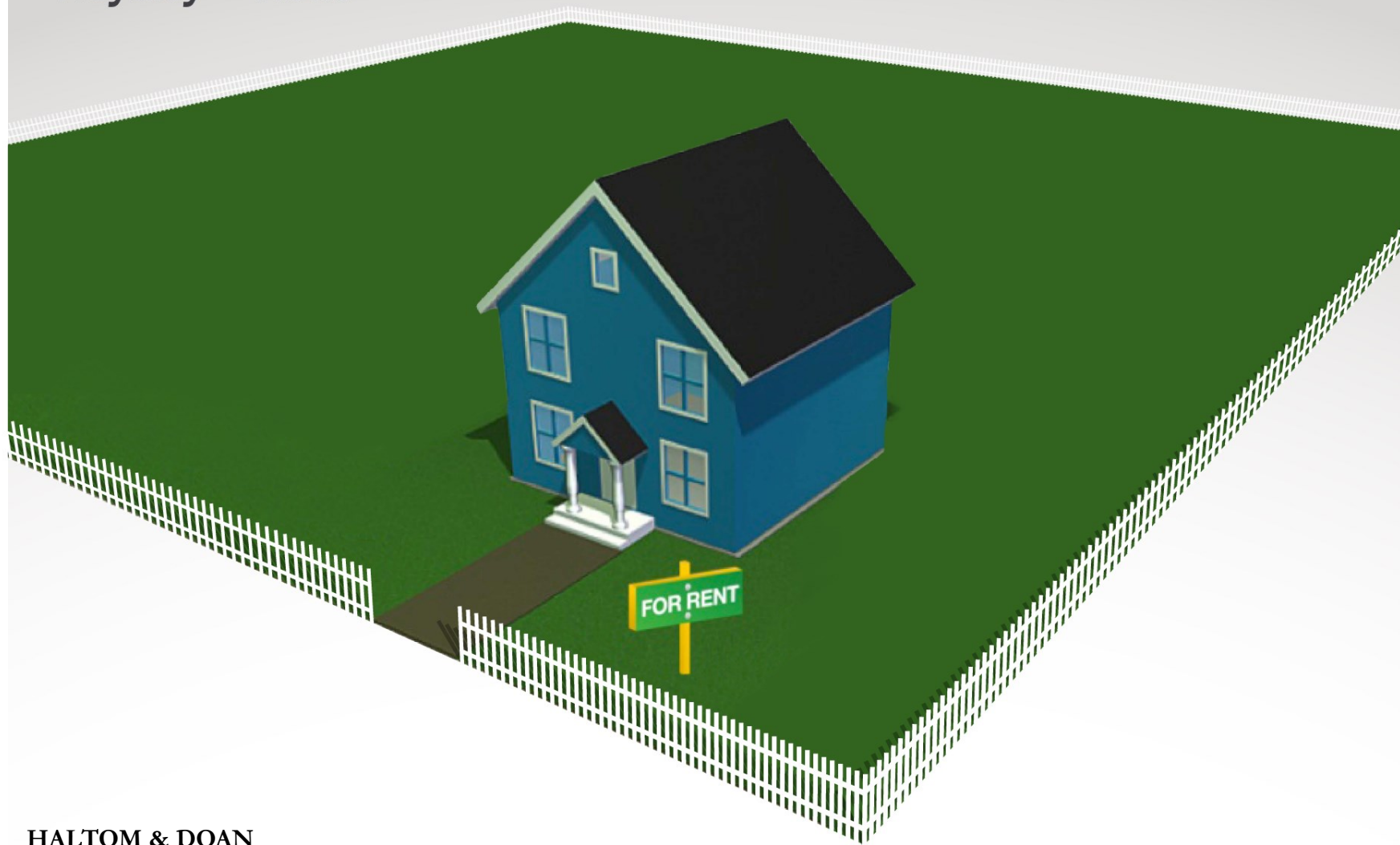


***Royalty = Rent***



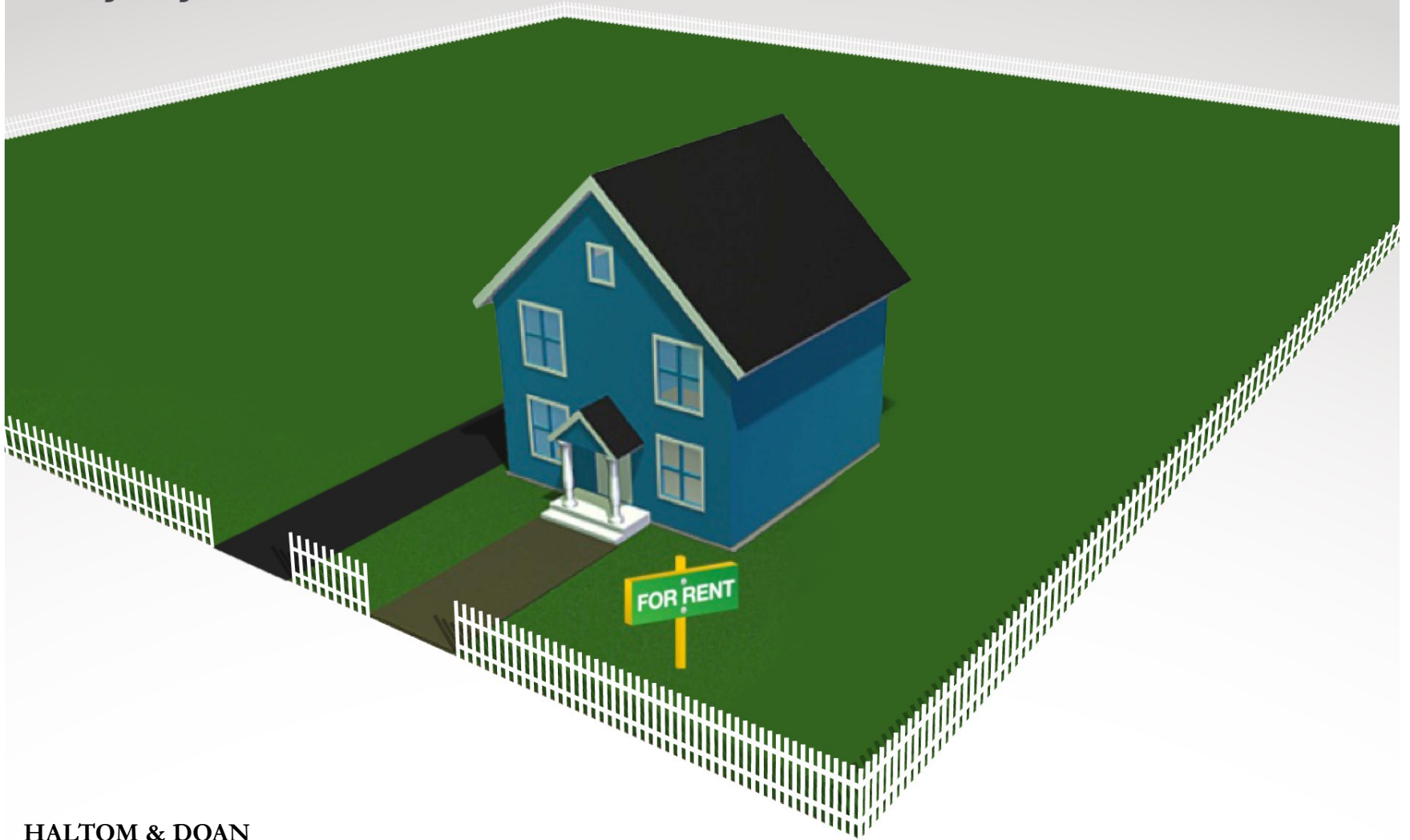
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TRIAL & APPELLATE COUNSEL

***Royalty = Rent***



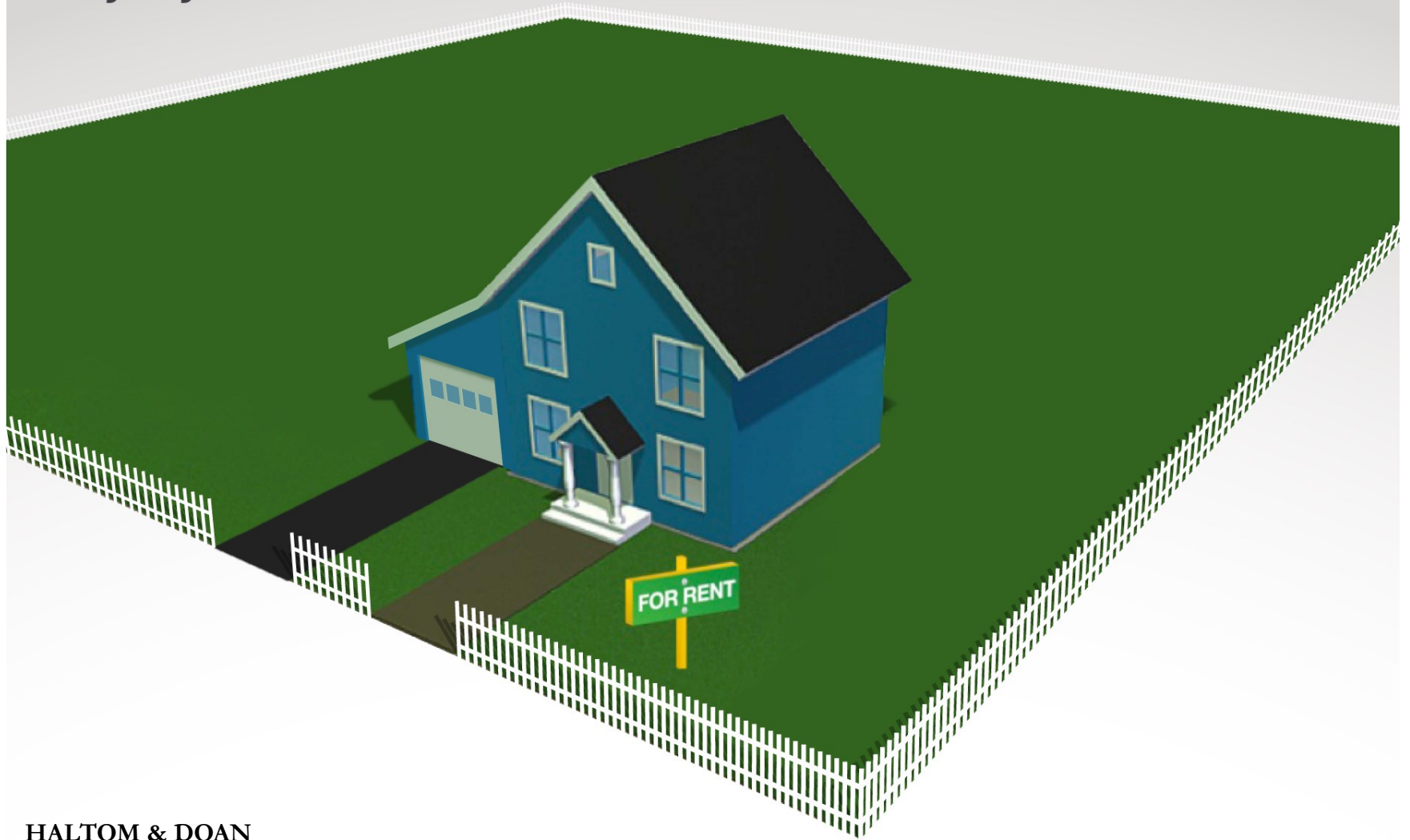
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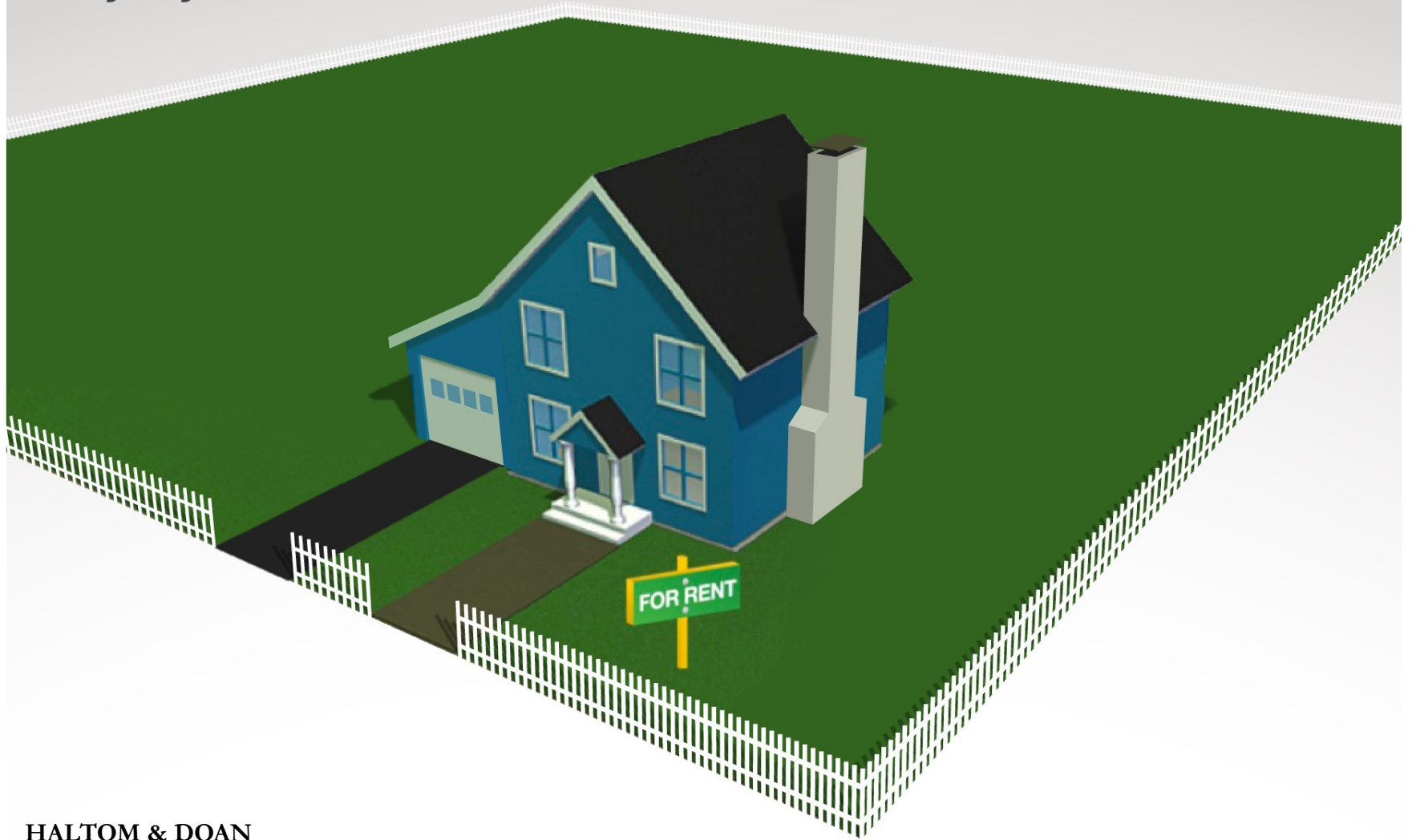
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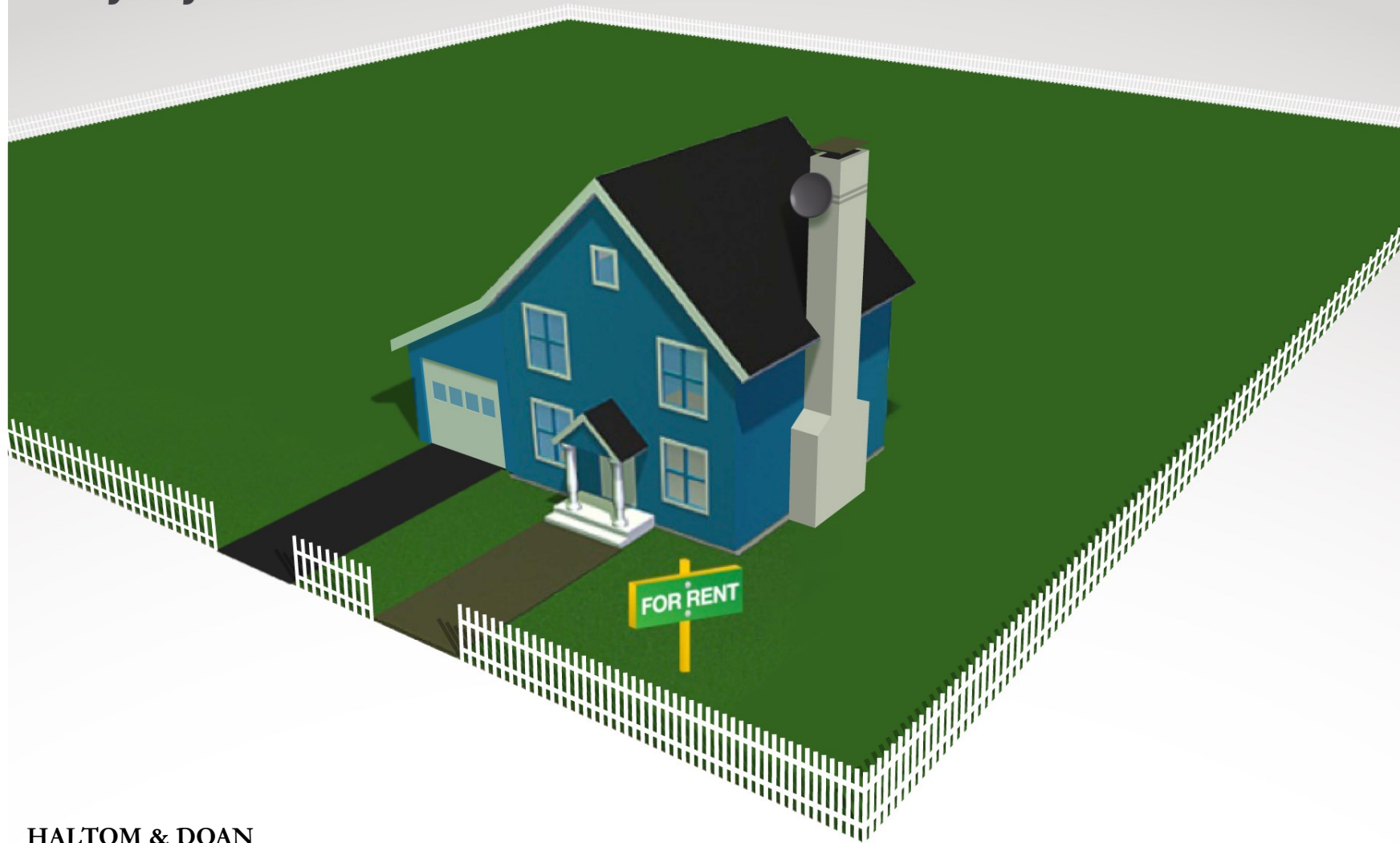
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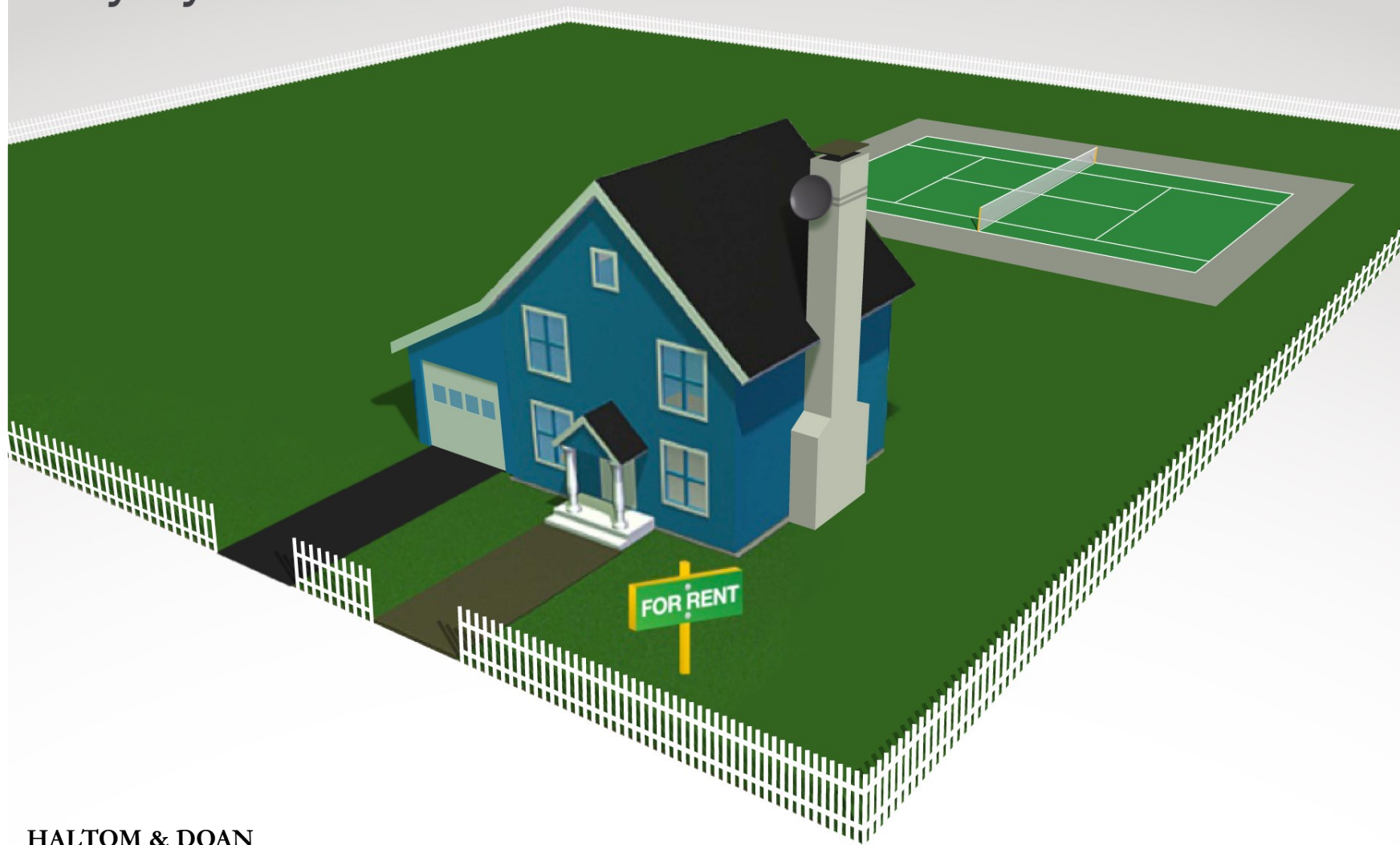
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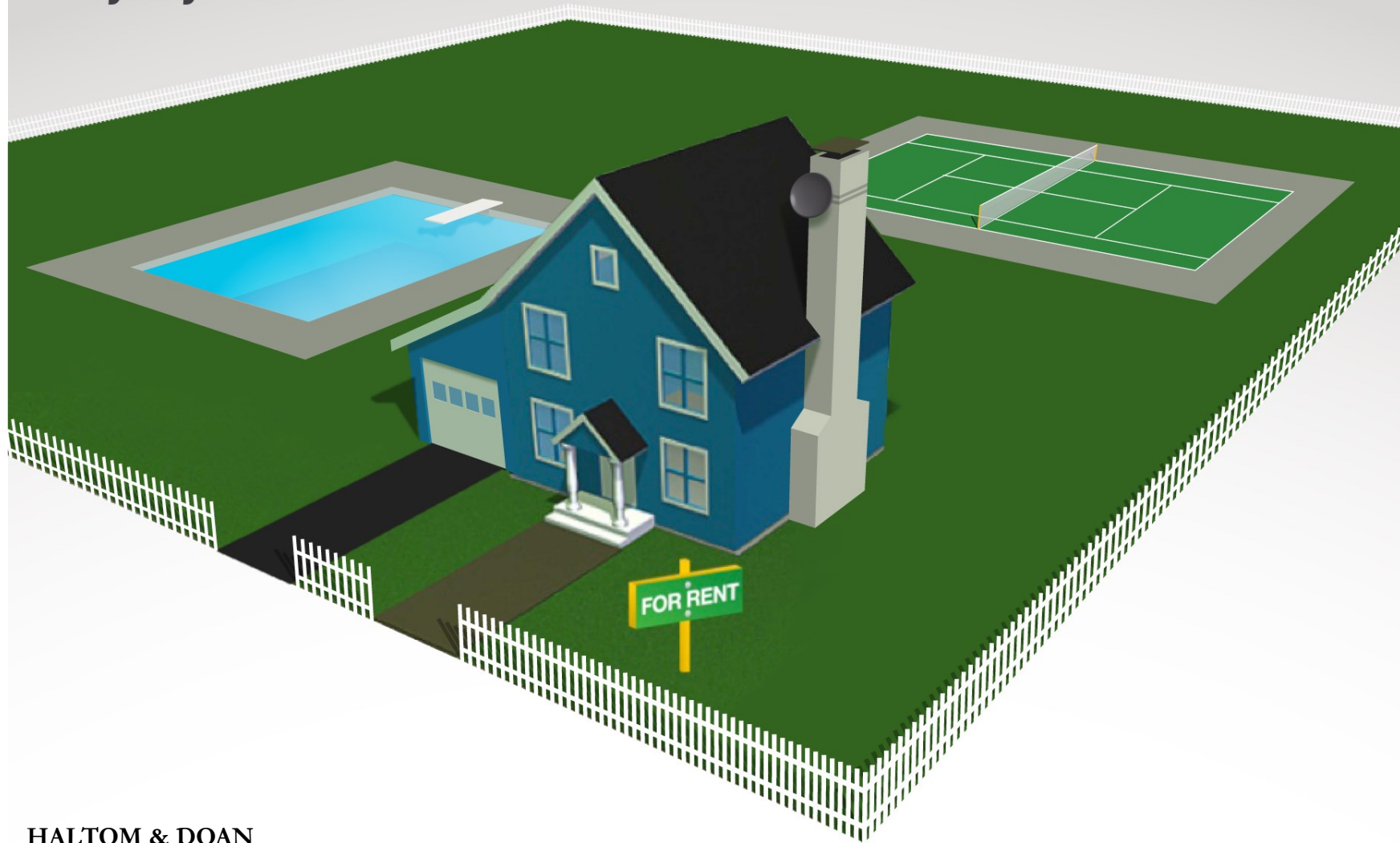
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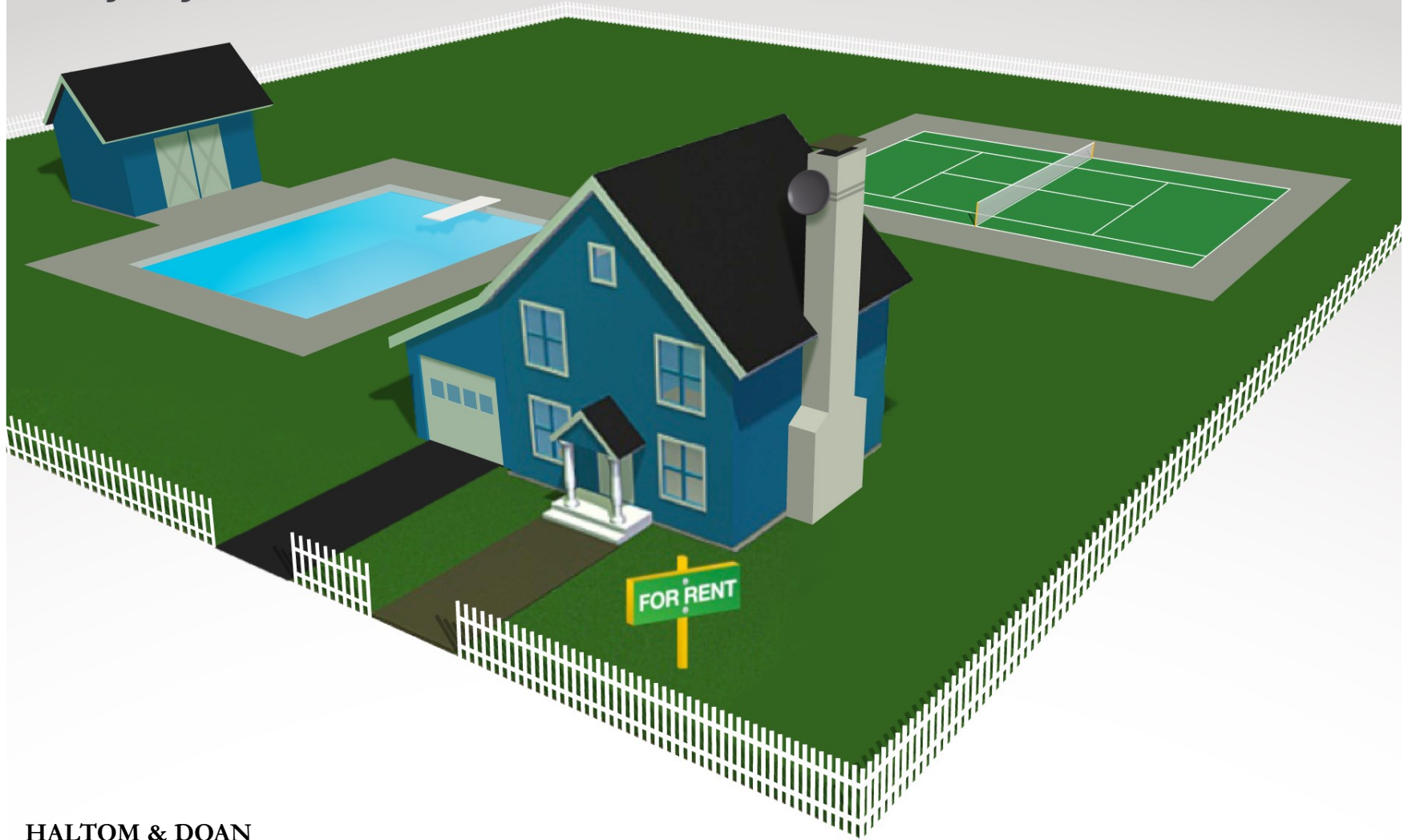
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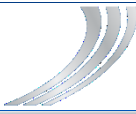
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# Layer Your Evidence

# The '764 Patent Figures



U.S. Patent

Sep. 26, 2006

Sheet 2 of 3

US 7,112,764 B2

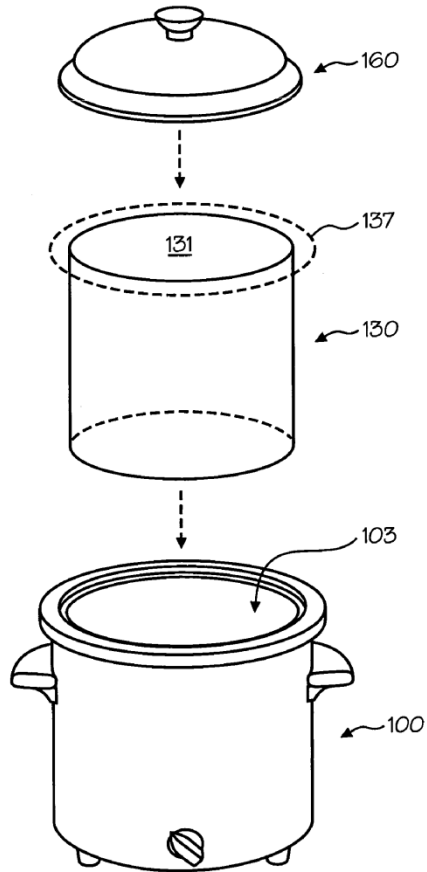


Fig. 2

U.S. Patent

Sep. 26, 2006

Sheet 3 of 3

US 7,112,764 B2

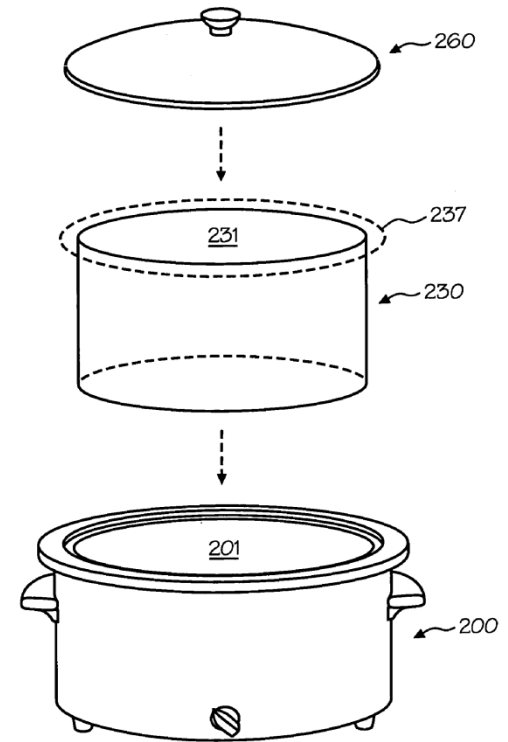
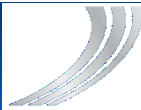
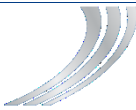


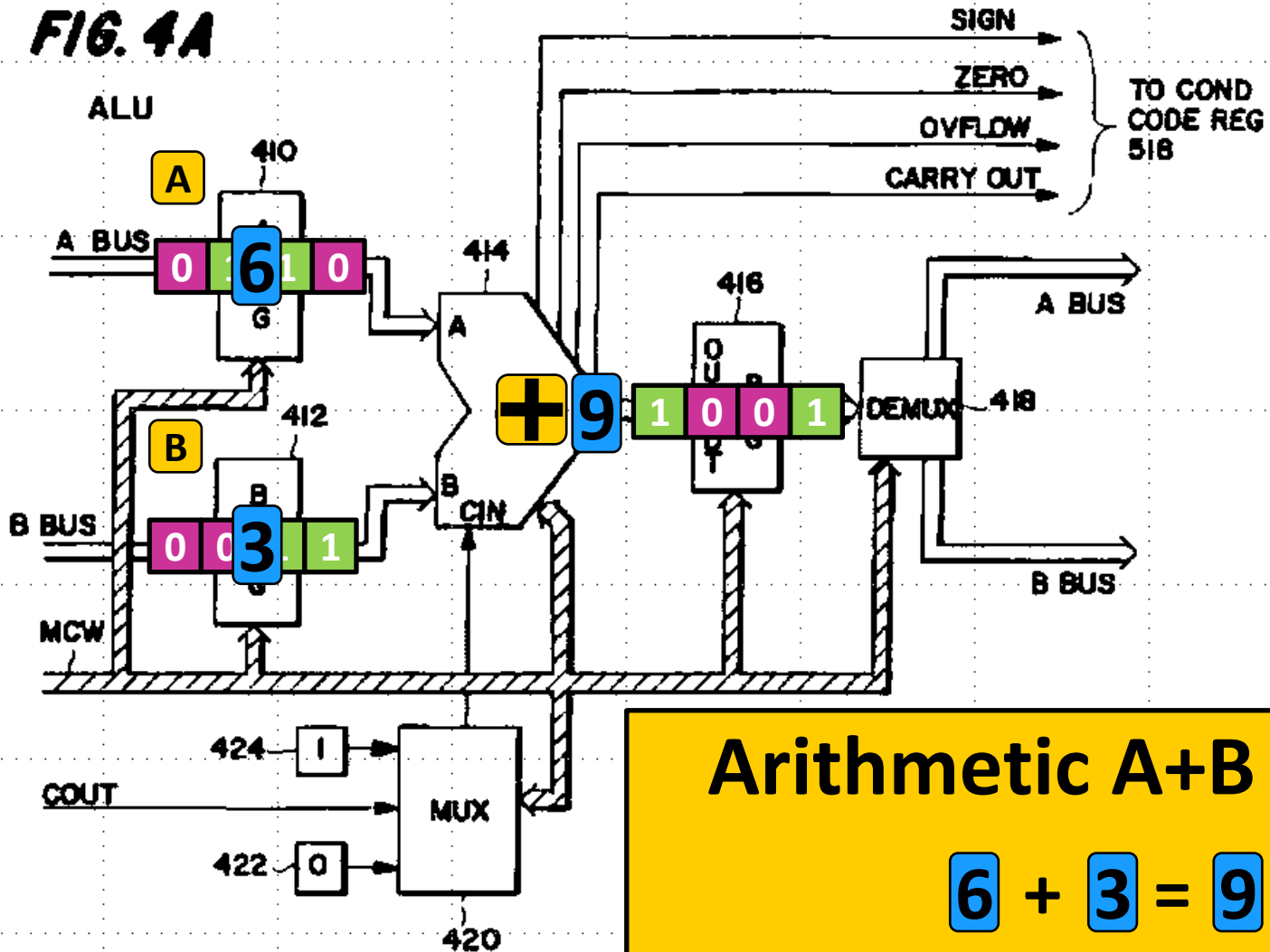
Fig. 3

# The Concept of Using Liners Was Well-Known





**FIG. 4A**



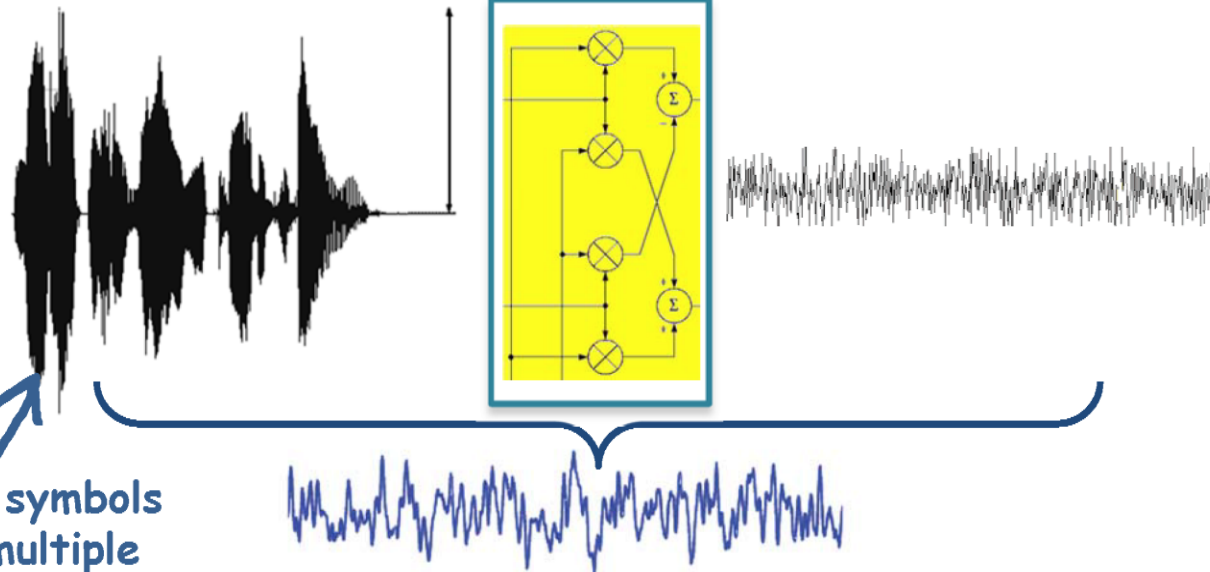
Make it Simple

# Spreading With Multiple Orthogonal Codes And Randomizing With The Randomizer Transform

Structure taught in the '802 patent is part of the invention

'802 Patent Enables 3G Cellular products

Randomizing Using The Randomizer Transform (Complex Multiplier)



Combined data symbols spread using multiple orthogonal codes (the modulated data symbols)

# Transceiver Is More Than Just The Qualcomm Chip

## Apple's 3G Cellular Products



iPhone

iPad



# The Patents-In-Suit

Step One  
Questions presented to customer related to features and uses of product

Step Two  
Customer answers questions related to features and uses of product

Step Three  
In response to answers, computer program automatically selects:

- Product Image
- Environment Image
- Text Segment

Step Four  
Selected images and segments are combined into a customized visual output

# The '776 Patent

## Step One

Questions presented to customer related to features and uses of product

## Step Two

Customer answers questions related to features and uses of product

## Step Three

In response to answers, computer program automatically selects:

Product Image

Environment Image

Text Segment

## Step Four

Selected images and segments are combined into a customized visual output

**61.** A computer implemented method of generating a customized proposal for selling equipment to particular customers, the method comprising the steps of:

a) receiving in the conjurer information identifying a customer's desired equipment features and uses, by

i) presenting the customer with a plurality of questions relating to features and uses of the equipment, and

ii) receiving in the computer a plurality of answers to the questions, the answers specifying the customer's desired equipment features and uses;

b) storing equipment pictures, equipment environment pictures, and text segments in the computer;

c) retrieving equipment information for use in generating the customized proposal, by

i) electronically selecting in the computer a particular equipment picture in response to at least one of the answers.

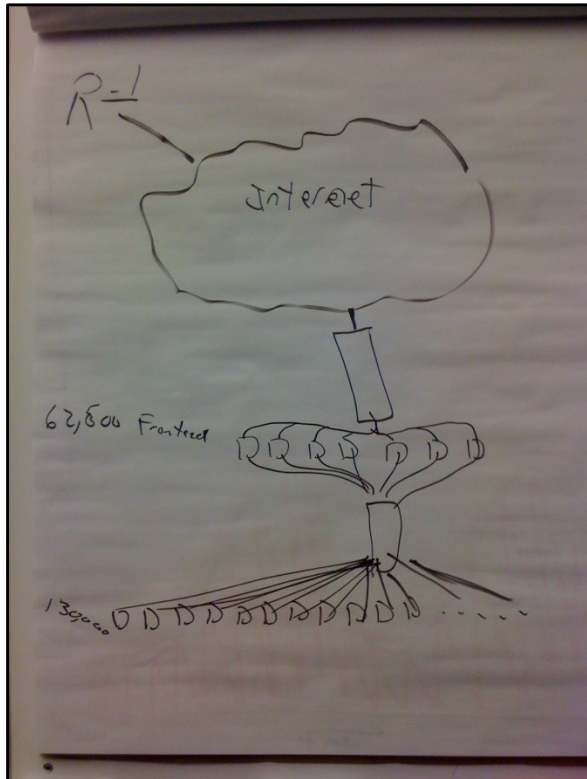
ii) electronically selecting in the computer a particular equipment environment picture in response to at least one of the answers, and

iii) electronically selecting in the computer a particular text segment in response to at least one of the answers; and

d) automatically compiling the gathered equipment information in the computer into the customized proposal.

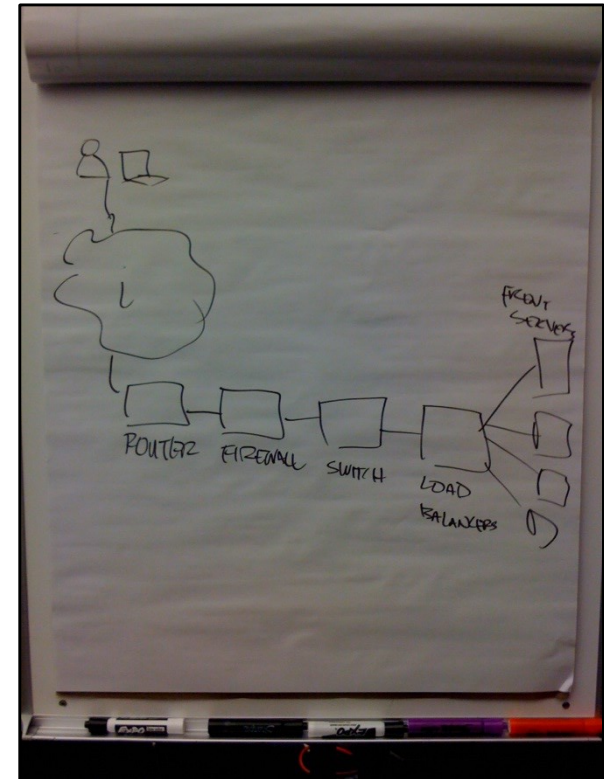
# Use Flip Charts

# Use Flip Charts



ALL DR. JONES MANAGER

KEPT DATA	X	✓
DOS TEST	X	✓
RED HAT LINUX	X	✓
MULTIPLE CONFIGURATIONS	X	✓



# Show Similar Evidence in Courtroom

Educate and Have Fun

# Questions for Presenter?



**Jennifer Haltom Doan**

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*Texarkana, TX*

[jdoan@haltomdoan.com](mailto:jdoan@haltomdoan.com)

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## Thank you for Participating!

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