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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/841,942	09/01/2015	John Oren	074686.002702	1079
132858	7590	11/30/2015	EXAMINER	
Hogan Lovells US LLP Bank of America Center 700 Louisiana Street Suite 4300 Houston, TX 77002			MYERS, GLENN F	
			ART UNIT	PAPER NUMBER
			3652	
			NOTIFICATION DATE	DELIVERY MODE
			11/30/2015	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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

hlusdocketing@hoganlovells.com

Office Action Summary	Application No. 14/841,942	Applicant(s) OREN, JOHN	
	Examiner GLENN MYERS	Art Unit 3652	AIA (First Inventor to File) Status No

-- 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 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 9/1/15.
☐ 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) 1-6 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) 1-6 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 9/1/15 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)

2) ☒ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)
Paper No(s)/Mail Date 9/1/15, 9/15/15, 10/13/15 and 11/3/15.

3) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.

4) ☐ Other: ____.

1. The present application is being examined under the pre-AIA first to invent provisions.

DETAILED ACTION

Information Disclosure Statement

2. The information disclosure statements (IDS) submitted on 9/1/15, 9/15/15, 10/13/15 and 11/3/15 are being considered by the examiner.

Claim Rejections - 35 USC § 103

3. The following is a quotation of pre-AIA 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 - 6, are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Cope US Publication 2009/0038242 and in view of Uhryn et al. 2013/0022441 hereafter referred to as Uhryn.

5. In Re Claims 1 and 6 Cope teaches a method of loading and transporting proppant, the method comprising:

a) positioning an empty proppant container (container portion of 15, Fig. 1), each located on a respective proppant transport road vehicle (15, Fig. 1), in close proximity to a rail spur (rail spur for railcar 1, Fig. 1) so that the empty proppant containers underlies a source of proppant (12, Fig. 1) received from rail cars on the rail spur.

b) filling the plurality of empty proppant containers with proppant thereby to

produce a plurality of proppant filled containers; (Fig. 1)

c) transferring the plurality of proppant filled containers with one or more proppant transporting road vehicles to a drill site: (Paragraph 58)

6. Cope does not teach unloading each of the plurality of proppant filled containers with an unloader.

7. However, Uhryn teaches unloading each of the plurality of proppant filled containers with an unloader; (Fig. 3) and loading a proppant filled container onto a platform;

providing a conveyor (58, Fig. 3) adjacent the platform (56, Fig. 3) and the proppant filled container (30, Fig. 3); and

discharging the proppant from each of the plurality of containers onto the conveyor. (Fig. 3)

8. It would have been obvious to one having ordinary skill in the art at the time the invention was made to unload proppant filled containers with an unloader in the method of Cope as taught by Uhryn in order to use at a well site.

9. Cope/Uhryn discloses the claimed invention except it is silent concerning a plurality of containers and a plurality of railcars. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a plurality of containers and a plurality of railcars, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

10. Official notice is taken that a first end surface and a second different end surface

and each of the first and second end surfaces having a plurality of upright structural support members thereon to enhance integrity of the container is a well-known method or feature for container structure. Therefore, it would have been obvious to a person having ordinary skill in the art to have a first end surface and a second different end surface and each of the first and second end surfaces having a plurality of upright structural support members thereon to enhance integrity of the container to the method of Cope/Uhryn in order to strengthen the container for heavier loads.

11. Regarding Claim 2, Official notice is taken that vertically stacking a plurality of filled containers with a loader so that one of the plurality of filled containers overlies another one of the plurality of filled containers is a well-known method or feature for storing containers. Therefore, it would have been obvious to a person having ordinary skill in the art to stack the containers of Cope/Uhryn in order to store them.

12. In Re Claim 3, Cope teaches conveying, on a conveyor, the proppant from one or more proppant transporting rail vehicles to a source from which to fill the plurality of empty proppant containers. (Paragraph 47)

13. In Re Claim 4, Cope teaches wherein the one or more proppant transporting road vehicles comprises a plurality (Paragraph 58 discusses trucks 15 in plural) of proppant transporting road vehicles, and wherein the method further comprises:

staging the plurality of proppant transporting road vehicles so that each of the plurality of proppant transporting road vehicles receives one or more of the plurality of proppant filled containers, (Fig. 2 shows a proppant transporting road vehicle with a container) delivers the container away from the rail spur, (Paragraph 58) thereby

increasing the efficiency with which proppant is transferred by the plurality of proppant transporting road vehicles.

14. In Re Claim 5, Cope teaches positioning a conveyor proximate a proppant transporting rail vehicle to receive proppant from the proppant transporting rail vehicle and thereby convey the proppant away from the proppant transporting rail vehicle when the conveyor operates. (Fig. 1)

15. Cope is silent concerning positioning the plurality of empty proppant containers to receive proppant sequentially so that as one of the plurality of empty containers is filled to a desired level, such one container then being removed in favor of another one of the plurality of empty proppant containers with the capacity to accept more proppant.

16. However, it would be a mere design expediency to position the plurality of empty proppant containers to receive proppant sequentially so that as one of the plurality of empty containers is filled to a desired level, such one container then being removed in favor of another one of the plurality of empty proppant containers with the capacity to accept more proppant and after removal of proppant from the conveyor, transporting each of the plurality of proppant filled containers away from the rail spur, in order unload with minimal downtime.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GLENN MYERS whose telephone number is (571)270-1160. The examiner can normally be reached on Monday - Friday/7:30AM-5:00PM - 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/GLENN MYERS/
Examiner, Art Unit 3652

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	§	
Oren	§	Group Art Unit: 3652
	§	
Serial No.: 14/841,942	§	Confirmation No. : 1079
	§	
Filed: September 1, 2015	§	Examiner: Myers, Glenn F.
	§	
METHOD OF DELIVERING,	§	Atty. Docket No.: 074686.002702
TRANSPORTING, AND STORING	§	
PROPPANT FOR DELIVERY AND USE	§	
AT A WELL SITE	§	

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO NON-FINAL OFFICE ACTION MAILED NOVEMBER 30, 2015

This is in response to the Non-final Office Action mailed November 30, 2015.

AMENDMENTS TO THE CLAIMS

The following listing of claims replaces all prior versions and listing of claims in the application.

Listing of claims:

1. (Currently Amended) A method of loading and transporting proppant, the method comprising:

a) positioning a plurality of empty proppant containers, each located on a respective proppant transport road vehicle and structurally strengthened to receive a large volume of proppant having a substantially spherical shape and a tightly graded particle distribution therein, in close proximity to a rail spur so that each of the plurality of empty proppant containers underlies a source of proppant received from rail cars on the rail spur, each of the plurality of empty containers including at least a first end surface and at least a second different end surface and each of the first and second end surfaces having a plurality of upright structural support members thereon to enhance integrity of the container for stacking and so that heavy weight from the proppant can be stored therein;

b) filling the plurality of empty proppant containers with proppant thereby to produce a plurality of proppant filled containers;

c) transferring the plurality of proppant filled containers with one or more proppant transporting road vehicles to a drill site; and

d) unloading each of the plurality of proppant filled containers with an unloader.[[.]]

2. (Currently Amended) The method of claim 1, further comprising vertically stacking the plurality of proppant filled containers with a loader so that one of the plurality of proppant filled

containers overlies another one of the plurality of filled containers to reduce the footprint of the area required for storage of the proppant.

3. (Original) The method of claim 1, further comprising:

conveying, on a conveyor, the proppant from one or more proppant transporting rail vehicles to a source from which to fill the plurality of empty proppant containers.

4. (Currently Amended) The method of Claim 1, wherein the one or more proppant transporting road vehicles comprises a plurality of proppant transporting road vehicles, and wherein the method further comprises:

staging the plurality of proppant transporting road vehicles so that each of the plurality of proppant transporting road vehicles receives one or more of the plurality of proppant filled containers, each container of the proppant filled containers being moved from a vertically stacked configuration via a loader and placed onto a bed of the proppant transporting road vehicle; and

~~delivers~~ delivering the container away from the rail spur and to a well site, thereby increasing the efficiency with which proppant is transferred by the plurality of proppant transporting road vehicles.

5. (Original) The method of claim 1, further comprising:

positioning a conveyor proximate a proppant transporting rail vehicle to receive proppant from the proppant transporting rail vehicle and thereby convey the proppant away from the proppant transporting rail vehicle when the conveyor operates;

positioning the plurality of empty proppant containers to receive proppant sequentially so that as one of the plurality of empty proppant containers is filled to a desired level, such one

container then being removed in favor of another one of the plurality of empty proppant containers with the capacity to accept more proppant;

after removal of proppant from the conveyor, transporting each of the plurality of proppant filled containers away from the rail spur.

6. (Original) The method of claim 1, further comprising:

loading each of the plurality of proppant filled containers onto a platform;
providing a conveyor adjacent the platform and the plurality of proppant filled containers;
and

discharging the proppant from each of the plurality of containers onto the conveyor.

7. (New) A method of loading and transporting proppant, the method comprising:

a) positioning a plurality of empty proppant containers, each located on a respective proppant transport road vehicle and structurally strengthened to receive a large volume of proppant having a substantially spherical shape and a tightly graded particle distribution therein, at a selected first location so that each of the plurality of empty proppant containers substantially underlies a source of proppant, each of the plurality of empty containers including at least a first end surface and at least a second different end surface and each of the first and second end surfaces having a plurality of upright structural support members thereon to enhance integrity of the container for stacking and so that heavy weight from the proppant can be stored therein;

b) filling the plurality of empty proppant containers with proppant thereby to produce a plurality of proppant filled containers;

c) transferring the plurality of proppant filled containers with one or more proppant transporting road vehicles to a selected second location;

d) vertically stacking the plurality structurally strengthened containers with a loader at the selected second location so that one of the plurality of proppant filled and structurally strengthened containers overlies another one of the plurality of filled and structurally strengthened containers to reduce the footprint of the area required for storage of the proppant; and

e) unloading each of the plurality of proppant filled containers with an unloader.

8. (New) The method of Claim 7, wherein the one or more proppant transporting road vehicles comprises a plurality of proppant transporting road vehicles, and wherein the method further comprises:

staging the plurality of proppant transporting road vehicles so that each of the plurality of proppant transporting road vehicles receives one or more of the plurality of proppant filled and structurally strengthened containers, each container of the proppant filled and structurally strengthened containers being moved from a vertically stacked configuration via a loader and placed onto a bed of one of the plurality of proppant transporting road vehicles; and

delivering the container to a well site, thereby increasing the efficiency with which proppant is transferred by the plurality of proppant transporting road vehicles.

9. (New) The method of Claim 7, wherein the one or more proppant transporting road vehicles comprises a plurality of proppant transporting road vehicles, and wherein the method further comprises:

staging the plurality of proppant transporting road vehicles so that each of the plurality of proppant transporting road vehicles receives one or more of the plurality of structurally

strengthened containers, each container of the structurally strengthened containers being moved from a vertically stacked configuration via a loader and placed onto a bed of one of the plurality of proppant transporting road vehicles; and

delivering the container to a third location, thereby increasing the efficiency with which proppant is transferred by the plurality of proppant transporting road vehicles.

REMARKS

This is in response to the Non-final Office Action mailed November 30, 2015. By the present response, Claims 1, 2, and 4 are amended without prejudice, including the doctrine of equivalents. New Claims 7-9 have been added. No new matter has been added. Upon entry of the amendments, Claims 1-9 will be pending in the present application. Applicant respectfully requests reconsideration and allowance of the pending claims.

Rejections under § 103

In the Office Action, the Examiner rejected Claims 1-6 under 35 U.S.C. § 103(a) as allegedly unpatentable over Cope (U.S. Patent Publication No. 2009/0038242) and Uhryn et al. (U.S. Patent Publication No. 2013/0022441; hereinafter “Uhryn”). Applicant respectfully disagrees and traverses this rejection.

The cited references, taken alone or in hypothetical combination, fail to disclose the structural uprights generally recited in independent Claim 1.

In the Office Action, the Examiner took Official notice that including a plurality of upright structural support members to enhance the integrity of a container is well known in the art. See Office Action, pages 3 and 4. Applicant respectfully disagrees because the nature of proppant is atypical of other bulk materials, such as grain, stone, liquids, or the like. For example, proppant is a highly-dense material having a tightly-graded particle distribution. As a result, proppant loaded into a container has little interstitial space and substantially fills the volume of containers in which it is placed. This results in a heavy container with substantial force applied to the side walls and end walls by the proppant. Yet, in an embodiment disclosed in the instant application, the container is still capable of being transported along railways and

roadways, despite the added weight of the proppant. Indeed, the claimed structural uprights are selected to selectively strengthen these embodiments of the container. It is more than a matter of just adding supports, as suggested by the Examiner, because doing so would increase the weight of the container, thereby reducing its functionality in terms of transportation and storage. That is, roadway and railway shipping has predetermined weight limits, above which fees must be paid, or, in some instances, freight cannot travel along the desired roadway or rail due to constraints with bridges and the like. By merely adding supports, the weight of the shipping container is increased, thereby decreasing the total weight that may be shipped due to the above-mentioned predetermined weight limits. Additionally, in at least one embodiment disclosed in the instant application, for example, the structural uprights are not added to just enhance support to contain the weight of the proppant stored therein, but positioned at predetermined locations of embodiments of the container in order to strengthen the container to enable vertical stackability, while still maintaining an overall weight to enable modular movability and use of the container. Because the selectively strengthened containers can be vertically stacked while the proppant is stored inside, a larger volume of proppant can be stored therein, e.g., proximate the rail spur, or at a well site, because the footprint occupied by the proppant is decreased. Accordingly, Applicant traverses the Examiner's improper Official notice because the structural uprights are more than just mere add-on features, as suggested by the Examiner.

Furthermore, the Examiner has provided no objective reasoning or motivation to modify the containers disclosed in Cope and Uhryn to include additional supports. For example, Cope is directed toward an improved grain elevator to facilitate distribution of a variety of products. Grain is known as a type of "loose material" and has significantly difference storage, transporting, and dispensing characteristics than proppant, e.g., sand, as claimed. Yet, Cope also

is silent regarding modifications to the containers to transport the products from one location to another. Moreover, Uhryn is directed toward proppant containers carrying smaller loads of proppant. For example, Uhryn describes a standard, 20 foot storage container to haul proppant. *See* Uhryn, Table 1. In sharp contrast, an embodiment in the instant application includes a similarly sized container capable of holding large amounts of proppant and yet structurally strengthened and vertically stackable with the large amounts of proppant therein. Therefore, the claimed structural strengthening and the claimed structural uprights clearly yield benefits not considered by Uhryn. That is, Uhryn provides no motivation or suggestion to structurally strengthen the container to haul large loads and to add structural uprights to stack vertically proppant filled containers. As a result, there is no reason to add additional support to the standard containers of Uhryn, because Uhryn fails to recognize the need, problems addressed by the claimed invention, and otherwise is content with its containers. For at least these reasons, among others, Applicant respectfully requests withdrawal of the rejection of independent Claim 1 and the claims depending therefrom.

Remarks and Amendments Made Without Prejudice

In commenting upon the cited documents in order to facilitate a better understanding of the differences that are expressed in both the original and replacement claims, certain details of distinction between the cited documents and the claimed embodiments of the invention have been mentioned, as well as the submission of replacement claims under Article 19, without prejudice as to patentability, including the doctrine of equivalents, even though such differences do not appear in all of the claims. It is not intended by mentioning any such unclaimed distinctions to create any implied limitations in either the original or replacement claims. Not all

of the distinctions between the cited documents and Applicant's claimed embodiments of the invention have been made by Applicant. For the foregoing reasons, Applicant reserves the right without prejudice to submit additional evidence showing the distinctions of Applicant's claimed embodiments of the invention and why such distinctions demonstrate that the claimed embodiments of the invention are novel and include one or more inventive steps in view of the cited documents.

The foregoing remarks, in the course of explanation, may employ shortened or more specific or variant descriptions of some of the claim language. Such descriptions are not intended to limit the scope of either the original or replacement claims; the actual claim language should be considered in each case. Furthermore, the remarks are not to be considered exhaustive of the facets of the claimed embodiments of the invention, which render them patentable, being only examples of certain advantageous features and differences that Applicant's representatives choose to mention at this time.

Conclusion

The foregoing response is full, complete, and timely filed. Amendments to the claims are made without prejudice, including under the doctrine of equivalents. In addition, the comments made herein are without prejudice. Applicants respectfully request reconsideration of the instant application in light of the foregoing response and amendments. If any additional fees are necessary for continued prosecution of this Application, the commissioner is hereby authorized to charge those fees to **Hogan Lovells US LLP's Deposit Account Number 506763 (074686.002702 JSW/jmt)**.

Respectfully submitted,

Date: February 1, 2016

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132858	7590	05/12/2016	EXAMINER	
Hogan Lovells US LLP Bank of America Center 700 Louisiana Street Suite 4300 Houston, TX 77002			MYERS, GLENN F	
			ART UNIT	PAPER NUMBER
			3652	
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			05/12/2016	ELECTRONIC

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	Examiner GLENN MYERS	Art Unit 3652	AIA (First Inventor to File) Status No

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Status

- 1) ☒ Responsive to communication(s) filed on 2/1/16.
☐ 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) 1-9 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) 1-9 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 ____ 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) <input type="checkbox"/> Notice of References Cited (PTO-892) | 3) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)
Paper No(s)/Mail Date ____ | 4) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. The present application is being examined under the pre-AIA first to invent provisions.
2. Independent Claims 1 and 7 include limitations not included in CIP parent application 13/332937.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 2/23/16 is being considered by the examiner.

Claim Rejections - 35 USC § 112

4. 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.

5. Claims 1-9 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 pre-AIA the applicant regards as the invention.
6. Claims 1 and 7 recite "tightly graded particle distribution therein" in Line 5 of Claim 1 and Line 4 of Claim 7. The term "tightly" in claims 1 and 7 is a relative term which renders the claim indefinite. The term "graded particle distribution" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the

scope of the invention. For examination purposes "tightly graded particle distribution" is being interpreted as "a particle distribution".

7. The remaining claims are rejected because they depend from a rejected claim.

Claim Rejections - 35 USC § 103

8. The following is a quotation of pre-AIA 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-9 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Cope US Publication 2009/0038242 and in view of Sheesley 2013/0206415.

10. In Re Claims 1, 2, 4 and 6 - 9, as best understood, Cope teaches a method of loading and transporting proppant, the method comprising:

positioning a plurality of empty proppant containers (containers on truck 99, Fig. 4), each located on a respective proppant transport road vehicle (99, Fig. 4) to receive a large volume of proppant having a substantially spherical shape (fracturing sand is substantially spherical, paragraph 58) and a tightly graded particle distribution therein, in close proximity to a rail spur (spur under 1, Fig. 4) so that each of the plurality of empty proppant containers underlies a source (14, Fig. 4) of proppant received from rail cars on the rail spur, each of the plurality of empty containers including at least a first end surface (surface on end closest to cab for 99, Fig. 4) and at least a second different end surface (surface at end opposite cab for 99, Fig. 4)

filling the plurality of empty proppant containers with proppant thereby to produce a plurality of proppant filled containers; (Fig. 4)

transferring the plurality of proppant filled containers with one or more proppant transporting road vehicles to a drill site; (Paragraph 58)

11. Cope does not teach unloading each of the plurality of proppant filled containers with an unloader.

12. However, Sheesley teaches transferring a plurality of proppant filled containers (296) with one or more proppant transporting road vehicles (truck, Fig. 2) to a drill site (294);

unloading each of the plurality of proppant filled containers with an unloader (300, Fig. 4); and

a container (130, Fig. 10) structurally strengthened to receive a large volume of proppant (abstract) having a substantially spherical shape (proppant sand has a substantially spherical shape) and a graded particle distribution therein; and a first end surface (left end, Fig. 9) and a second different end surface (right end, Fig. 9) each having a plurality of upright structural support members (corner posts shown at 152, Fig. 9) thereon to enhance integrity of the container for stacking (Fig. 3) and so that heavy weight from the proppant can be stored therein; and

vertically stacking (Fig. 3) the plurality of proppant filled containers with a loader (298) so that one of the plurality of proppant filled containers overlies another one of the plurality of filled containers to reduce the footprint of the area required for storage of the proppant; and

wherein the one or more proppant transporting road vehicles comprises a plurality of proppant transporting road vehicles (290, 296, Fig. 2), and wherein the method further comprises:

staging a proppant transporting road vehicle (296, Fig. 2) so that each of the plurality of proppant transporting road vehicle receives one or more of the plurality of proppant filled containers (container at 296, Fig. 2), each container of the proppant filled containers being moved from a vertically stacked configuration (at 292, Fig. 2) and placed onto a bed of the proppant transporting road vehicle; and

delivering the container away from the rail spur and to a well site, (296, Fig. 2) thereby increasing the efficiency with which proppant is transferred by the plurality of proppant transporting road vehicles; and

delivering the container to a third location, thereby increasing the efficiency with which proppant is transferred by the plurality of proppant transporting road vehicles.

loading each of the plurality of proppant filled containers (328) onto a platform (Fig. 7); providing a conveyor (330) adjacent the platform and the plurality of proppant filled containers; and

discharging the proppant from each of the plurality of containers onto the conveyor. (Paragraph 89)

13. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a container and a truck to transfer the container to a drill site and unload the proppant filled containers using an unloader in the method of Cope as

taught by Sheesley in order to create a flexible use vehicle and so that the container can be transported over a rougher terrain.

14. Cope/Sheesley discloses the claimed invention except for staging a plurality of proppant transporting road vehicles. It would have been obvious to one having ordinary skill in the art at the time the invention was made to stage additional proppant transporting road vehicles, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

15. Cope/Sheesley discloses the claimed invention except for using a loader for moving each container of the proppant filled containers being from a vertically stacked configuration (at 292, Fig. 2) and placing onto a bed of the proppant transporting road vehicle. It would be a mere design expediency to use a loader for moving a proppant container because moving the container by hand would be too difficult and dangerous for one person.

16. In Re Claim 3, Cope teaches conveying, on a conveyor (5, Fig. 4), the proppant from one or more proppant transporting rail vehicles (1, Fig. 4) to a source (14, Fig. 4) from which to fill the plurality of empty proppant containers (container at 99, Fig. 4).

17. In Re Claim 5, Cope teaches positioning a conveyor (5, Fig. 4) proximate a proppant transporting rail vehicle (1, Fig. 4) to receive proppant from the proppant transporting rail vehicle and thereby convey the proppant away from the proppant transporting rail vehicle when the conveyor operates; (Fig. 4, Fig. 5)

after removal of proppant from the conveyor, transporting each of the plurality of proppant filled containers away from the rail spur. (Paragraph 58)

18. Cope/Sheesley does not teach positioning a plurality of empty containers to receive proppant sequentially and replacing filled containers with empty containers to accept more proppant. However, Official notice is taken that positioning containers sequentially to receive a load such that once a container is filled to a desired level, it is removed in favor of another empty container is a well-known method or feature for loading containers. Therefore, it would have been obvious to a person having ordinary skill in the art to position the plurality of empty proppant containers to receive proppant sequentially so that as one of the plurality of empty proppant containers is filled to a desired level, such one container then being removed in favor of another one of the plurality of empty proppant containers with the capacity to accept more proppant in order to load material efficiently. The Examiner notes that trucks with containers line up sequential at quarry to receive gravel for use. As a container is filled the container is moved away and replaced by another empty container.

Response to Arguments

19. Applicant's arguments with respect to claims 1-9 have been considered but are moot because the arguments do not apply to any of the references being used in the current rejection.

Conclusion

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GLENN MYERS whose telephone number is (571)270-1160. The examiner can normally be reached on Monday - Friday/7:30AM-5:00PM - 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/GLENN MYERS/
Examiner, Art Unit 3652

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	§	
Oren	§	Group Art Unit: 3652
	§	
Serial No.: 14/841,942	§	Confirmation No. : 1079
	§	
Filed: September 1, 2015	§	Examiner: Myers, Glenn F.
	§	
METHOD OF DELIVERING,	§	Atty. Docket No.: 074686.002702
TRANSPORTING, AND STORING	§	
PROPPANT FOR DELIVERY AND USE	§	
AT A WELL SITE	§	

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO FINAL OFFICE ACTION MAILED MAY 12, 2016

This is in response to the Final Office Action mailed May 12, 2016.

AMENDMENTS TO THE CLAIMS

The following listing of claims replaces all prior versions and listing of claims in the application.

Listing of claims:

1. (Currently Amended) A method of loading and transporting proppant, the method comprising:

a) positioning a plurality of empty proppant containers, each ~~located~~removably positioned on a respective proppant ~~transport~~transporting road vehicle and structurally strengthened to receive a large volume of proppant having a substantially spherical shape ~~and a tightly-graded particle distribution therein~~, in close proximity to a rail spur so that each of the plurality of empty proppant containers underlies a source of proppant received from rail cars on the rail spur, each of the plurality of empty containers including at least a first end surface and at least a second different end surface and each of the first and second end surfaces having a plurality of upright structural support members thereon to enhance integrity of the container for stacking and so that heavy weight from the proppant can be stored therein;

b) filling the plurality of empty proppant containers with proppant thereby to produce a plurality of proppant filled containers, the plurality of empty proppant containers being filled when positioned on the respective proppant transporting road vehicles;

c) transferring the plurality of proppant filled containers with one or more proppant transporting road vehicles to a drill site; and

d) unloading each of the plurality of proppant filled containers with an unloader.

2. (Previously Presented) The method of claim 1, further comprising vertically stacking the plurality of proppant filled containers with a loader so that one of the plurality of

proppant filled containers overlies another one of the plurality of filled containers to reduce the footprint of the area required for storage of the proppant.

3. (Currently Amended) The method of claim 1, further comprising:

conveying, on a conveyor, the proppant from one or more proppant transporting rail vehicles to a source from which to fill the plurality of empty proppant containers, each proppant container of the plurality of empty proppant containers being structurally strengthened by a plurality of support members positioned separate from a frame of the respective proppant container.

4. (Currently Amended) The method of Claim 1, wherein the one or more proppant transporting road vehicles comprises a plurality of proppant transporting road vehicles, and wherein the method further comprises:

staging the plurality of proppant transporting road vehicles so that each of the plurality of proppant transporting road vehicles receives one or more of the plurality of proppant filled containers, each container of the proppant filled containers being moved from a vertically stacked configuration via a loader and placed onto a bed of the proppant transporting road vehicle, the vertically stacked configuration being positioned in close proximity to the rail spur;
and

delivering the container away from the rail spur and to a well site, thereby increasing the efficiency with which proppant is transferred by the plurality of proppant transporting road vehicles.

5. (Original) The method of claim 1, further comprising:

positioning a conveyor proximate a proppant transporting rail vehicle to receive proppant from the proppant transporting rail vehicle and thereby convey the proppant away from the proppant transporting rail vehicle when the conveyor operates;

positioning the plurality of empty proppant containers to receive proppant sequentially so that as one of the plurality of empty proppant containers is filled to a desired level, such one container then being removed in favor of another one of the plurality of empty proppant containers with the capacity to accept more proppant;

after removal of proppant from the conveyor, transporting each of the plurality of proppant filled containers away from the rail spur.

6. (Original) The method of claim 1, further comprising:

loading each of the plurality of proppant filled containers onto a platform;

providing a conveyor adjacent the platform and the plurality of proppant filled containers;

and

discharging the proppant from each of the plurality of containers onto the conveyor.

7. (Currently Amended) A method of loading and transporting proppant, the method comprising:

a) positioning a plurality of empty proppant containers, each located on a respective proppant ~~transport~~transporting road vehicle and structurally strengthened to receive a large volume of proppant having a substantially spherical shape ~~and a tightly graded particle distribution therein~~, at a selected first location so that each of the plurality of empty proppant containers substantially underlies a source of proppant, each of the plurality of empty containers being separate and removable from the respective proppant transporting road vehicle and

including at least a first end surface and at least a second different end surface and each of the first and second end surfaces having a plurality of upright structural support members thereon to enhance integrity of the container for stacking and so that heavy weight from the proppant can be stored therein;

b) filling the plurality of empty proppant containers with proppant thereby to produce a plurality of proppant filled containers, the plurality of empty proppant containers being positioned on respective proppant transporting road vehicles from a stored position before being filled;

c) transferring the plurality of proppant filled containers with one or more proppant transporting road vehicles to a selected second location;

d) vertically stacking the plurality structurally strengthened containers with a loader at the selected second location so that one of the plurality of proppant filled and structurally strengthened containers overlies another one of the plurality of filled and structurally strengthened containers to reduce the footprint of the area required for storage of the proppant; and

e) unloading each of the plurality of proppant filled containers with an unloader.

8. (Previously Presented) The method of Claim 7, wherein the one or more proppant transporting road vehicles comprises a plurality of proppant transporting road vehicles, and wherein the method further comprises:

staging the plurality of proppant transporting road vehicles so that each of the plurality of proppant transporting road vehicles receives one or more of the plurality of proppant filled and structurally strengthened containers, each container of the proppant filled and structurally

strengthened containers being moved from a vertically stacked configuration via a loader and placed onto a bed of one of the plurality of proppant transporting road vehicles; and

delivering the container to a well site, thereby increasing the efficiency with which proppant is transferred by the plurality of proppant transporting road vehicles.

9. (Previously Presented) The method of Claim 7, wherein the one or more proppant transporting road vehicles comprises a plurality of proppant transporting road vehicles, and wherein the method further comprises:

staging the plurality of proppant transporting road vehicles so that each of the plurality of proppant transporting road vehicles receives one or more of the plurality of structurally strengthened containers, each container of the structurally strengthened containers being moved from a vertically stacked configuration via a loader and placed onto a bed of one of the plurality of proppant transporting road vehicles; and

delivering the container to a third location, thereby increasing the efficiency with which proppant is transferred by the plurality of proppant transporting road vehicles.

REMARKS

This is in response to the Final Office Action mailed May 12, 2016. By the present response, Claims 1, 3, 4, and 7 are amended without prejudice, including the doctrine of equivalents. No new matter has been added. Upon entry of the amendments, Claims 1-9 will be pending in the present application. Applicant respectfully requests reconsideration and allowance of the pending claims.

Rejection under § 112

In the Office Action, the Examiner rejected Claims 1-9 under 35 U.S.C. § 112, second paragraph as allegedly being indefinite. *See* Office Action, page 2. Specifically, the Examiner contended that the phrase “tightly graded particle distribution therein” renders the claim indefinite. *See id.* Applicant respectfully disagrees, but has amended Claims 1 and 7 to advance prosecution. Accordingly, Applicant respectfully requests withdrawal of the § 112 rejection.

Rejection under § 103

In the Office Action, the Examiner rejected Claims 1-9 under 35 U.S.C. § 103(a) as allegedly unpatentable over Cope (U.S. Patent Publication No. 2009/0038242) and Sheesley (U.S. Patent Publication No. 2013/0206415). Applicant respectfully disagrees and traverses this rejection.

There is no objective reason to combine the cited references.

There is no reason to combine Cope and Sheesley because Cope is directed to bulk storage hubs using modified grain silos and Sheesley is directed to transferring individualized containers filled with bulk materials. As a result, Cope and Sheesley are directed to, and attempt

to solve, substantially different problems. Namely, Cope aims to provide a number of bulk storage locations across the country, while Sheesley aims to move containers filled with materials from its source. Therefore, there is no reason to combine Cope and Sheesley.

FIG. 4 of Cope illustrates an improved grain elevator apparatus 100 arranged such that trucks 99, rail cars 98, or barges 97 can load or unload dry bulk materials 12 to/from the grain elevator apparatus 100. *See* Cope, paragraph 47; FIG. 4. Cope, however, does not describe the containers or shipping devices with particularity. For example, the rail car 98 is described as a standard rail car. *See id.* Moreover, the trucks 99 are also not described with particularity. *See id.* As a result, one skilled in the art would interpret Cope as loading/unloading common shipping tools, such open-bed or pneumatic trucks, utilizing common methods. As described below, standard storage and shipping methods are not reasonably combinable with Sheesley.

Sheesley, in contrast, is directed to moving individual, containerized units filled with material. For example, Sheesley describes filling the containers 270 at a source, such as a quarry 30, and then utilizing shipping means such as ships 272, barges 274, rails 276, and trucks 278 to move the filled containers. *See* Sheesley, FIG. 2. As a result, and in contrast to Cope, Sheesley does not describe transporting empty containers to a series of shipping hubs for filling and later movement. Because Cope and Sheesley describe fundamentally different shipping methods, there is no objective reason one skilled in the art would combine the references. Accordingly, Applicant respectfully requests withdrawal of the § 103 rejection of independent Claims 1 and 7 and the claims depending therefrom.

The cited references, taken alone or in hypothetical combination, fail to describe each feature of independent Claim 1.

The cited references, taken alone or in hypothetical combination, fail to describe proppant containers that are removably positioned on a road vehicle and then subsequently filled when

positioned on the road vehicle, among other features, as generally recited by the embodiment claimed in independent Claim 1. In the Office Action, the Examiner cited Cope, with reference to FIG. 4 for the contention that Cope describes filling an empty proppant container. *See* Office Action, pages 3 and 4. However, Cope is silent as to the proppant container being removably positioned on a proppant transporting road vehicle. Indeed, Cope does not describe the trucks 99 of FIG. 4 with any specificity. Furthermore, Sheesley fails to obviate the deficiencies of Cope. Indeed, FIG. 2 of Sheesley describes positioning filled containers 270 on a truck 278. *See* Sheesley, FIG. 2. Because the cited references fail to describe each feature of the embodiment claimed in Claim 1, Applicant respectfully requests withdrawal of the rejection of Claim 1 and the claims depending therefrom.

The cited references, taken alone or in hypothetical combination, fail to describe each feature of independent Claim 7.

The cited references, taken alone or in hypothetical combination, fail to describe proppant containers that are separate and removable from road vehicles and positioning empty proppant containers on a road vehicle from storage before filling, among other features, as generally recited in independent Claim 7. In the Office Action, the Examiner cited Cope, with reference to FIG. 4 for the contention that Cope describes filling an empty proppant container. *See* Office Action, pages 3 and 4. However, Cope is silent as to the proppant container being separate and removable from the road vehicle. Indeed, Cope does not describe the trucks 99 of FIG. 4 with any specificity. Furthermore, Sheesley fails to obviate the deficiencies of Cope. Indeed, FIG. 2 of Sheesley describes positioning filled containers 270 on a truck 278. *See* Sheesley, FIG. 2. Moreover, Sheesley further describes storage of filled containers 282, and does not describe storing empty containers before positioning the containers on road vehicles. *See id.* Because the

cited references fail to describe each feature of the embodiment claimed in Claim 7, Applicant respectfully requests withdrawal of the rejection of Claim 7 and the claims depending therefrom.

Remarks and Amendments Made Without Prejudice

In commenting upon the cited documents in order to facilitate a better understanding of the differences that are expressed in both the original and replacement claims, certain details of distinction between the cited documents and the claimed embodiments of the invention have been mentioned, as well as the submission of replacement claims under Article 19, without prejudice as to patentability, including the doctrine of equivalents, even though such differences do not appear in all of the claims. It is not intended by mentioning any such unclaimed distinctions to create any implied limitations in either the original or replacement claims. Not all of the distinctions between the cited documents and Applicant's claimed embodiments of the invention have been made by Applicant. For the foregoing reasons, Applicant reserves the right without prejudice to submit additional evidence showing the distinctions of Applicant's claimed embodiments of the invention and why such distinctions demonstrate that the claimed embodiments of the invention are novel and include one or more inventive steps in view of the cited documents.

The foregoing remarks, in the course of explanation, may employ shortened or more specific or variant descriptions of some of the claim language. Such descriptions are not intended to limit the scope of either the original or replacement claims; the actual claim language should be considered in each case. Furthermore, the remarks are not to be considered exhaustive of the facets of the claimed embodiments of the invention, which render them patentable, being

only examples of certain advantageous features and differences that Applicant's representatives choose to mention at this time.

Conclusion

The foregoing response is full, complete, and timely filed. Amendments to the claims are made without prejudice, including under the doctrine of equivalents. In addition, the comments made herein are without prejudice. Applicant respectfully requests reconsideration of the instant application in light of the foregoing response and amendments. If any additional fees are necessary for continued prosecution of this Application, the commissioner is hereby authorized to charge those fees to **Hogan Lovells US LLP's Deposit Account Number 506763 (074686.002702 JSW/jmt)**.

Respectfully submitted,

Date: July 11, 2016

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/841,942	09/01/2015	John Oren	074686.002702	1079

132858	7590	08/08/2016
Hogan Lovells US LLP Bank of America Center 700 Louisiana Street Suite 4300 Houston, TX 77002		

EXAMINER	
MYERS, GLENN F	

ART UNIT	PAPER NUMBER
3652	

NOTIFICATION DATE	DELIVERY MODE
08/08/2016	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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

hlusdocketing@hoganlovells.com

Advisory Action Before the Filing of an Appeal Brief	Application No. 14/841,942	Applicant(s) OREN, JOHN	
	Examiner GLENN MYERS	Art Unit 3652	AIA (First Inventor to File) Status No

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

THE REPLY FILED 11 July 2016 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.
NO NOTICE OF APPEAL FILED

1. ☒ The reply was filed after a final rejection. No Notice of Appeal has been filed. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance;
 (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114 if this is a utility or plant application. Note that RCEs are not permitted in design applications. The reply must be filed within one of the following time periods:

a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action; or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

c) ☐ A prior Advisory Action was mailed more than 3 months after the mailing date of the final rejection in response to a first after-final reply filed within 2 months of the mailing date of the final rejection. The current period for reply expires _____ months from the mailing date of the prior Advisory Action or SIX MONTHS from the mailing date of the final rejection, whichever is earlier.

Examiner Note: If box 1 is checked, check either box (a), (b) or (c). ONLY CHECK BOX (b) WHEN THIS ADVISORY ACTION IS THE FIRST RESPONSE TO APPLICANT'S FIRST AFTER-FINAL REPLY WHICH WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. ONLY CHECK BOX (c) IN THE LIMITED SITUATION SET FORTH UNDER BOX (c). See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) or (c) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendments filed after a final rejection, but prior to the date of filing a brief, will not be entered because

a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);

b) ☐ They raise the issue of new matter (see NOTE below);

c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): (a) ☐ will not be entered, or (b) ☐ will be entered, and an explanation of how the new or amended claims would be rejected is provided below or appended.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

9. ☐ The affidavit or other evidence filed after final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

10. ☐ The affidavit or other evidence filed after the date of filing the Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

11. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

12. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

13. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

14. ☐ Other: _____.

STATUS OF CLAIMS

15. The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-9. _____

Claim(s) withdrawn from consideration: _____

/GLENN MYERS/ Examiner, Art Unit 3652	
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Continuation of 3. NOTE: Changes to Claims 1, 3, 4 and 7 require further search and/or consideration..



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/841,942	09/01/2015	John Oren	074686.002702	1079
132858	7590	09/07/2016	EXAMINER	
Hogan Lovells US LLP Bank of America Center 700 Louisiana Street Suite 4300 Houston, TX 77002			MYERS, GLENN F	
			ART UNIT	PAPER NUMBER
			3652	
			NOTIFICATION DATE	DELIVERY MODE
			09/07/2016	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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

hlusdocketing@hoganlovells.com

Office Action Summary	Application No. 14/841,942	Applicant(s) OREN, JOHN	
	Examiner GLENN MYERS	Art Unit 3652	AIA (First Inventor to File) Status No

-- 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 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 7/11/16.
☐ 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) 1-9 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) 1-9 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 ____ 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)
- 2) ☒ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)
Paper No(s)/Mail Date ____.
- 3) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 4) ☐ Other: ____.

1. The present application is being examined under the pre-AIA first to invent provisions.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/11/16 has been entered.

Information Disclosure Statement

3. The information disclosure statements (IDS) submitted on 5/11/16, 5/31/16, 7/21/16, 8/15/16, 8/23/16 and 8/26/16 are being considered by the examiner.

Claim Rejections - 35 USC § 103

4. The following is a quotation of pre-AIA 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-6 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Sheesley 2013/0206415 and in view of Cope US Publication 2009/0038242.
6. In Re Claims 1, 3 and 5, Sheesley teaches a method of loading and transporting proppant, the method comprising:

positioning a plurality of proppant containers (270), each removably positioned on a respective proppant transporting road vehicle (284) and structurally strengthened (ridges on walls strengthen the container, Fig. 9) to receive a large volume of proppant having a substantially spherical shape therein (306, Fig. 5), in close proximity to a rail spur (rail under 276, Fig. 2) so that each of the plurality of empty proppant containers is near a source of proppant received from rail cars on the rail spur, each of the plurality of empty containers including at least a first end surface (left end, Fig. 9) and at least a second different end surface (right end, Fig. 9) and each of the first and second end surfaces having a plurality of upright structural support members (152, Fig. 9) thereon to enhance integrity of the container for stacking and so that heavy weight from the proppant can be stored therein;

transferring the plurality of proppant filled containers with one or more proppant transporting road vehicles to a drill site; (284, Fig. 2) and

unloading each of the plurality of proppant filled containers with an unloader (300, Fig. 3) (Paragraph 83); and

each proppant container of the plurality of empty proppant containers being structurally strengthened by a plurality of support members (174, Fig. 10) positioned separate from a frame (156, Fig. 10) of the respective proppant container.

7. Sheesley does not teach filling the plurality of empty containers with proppant thereby to produce a plurality of proppant filled containers, the plurality of empty proppant containers being filled when positioned on the respective proppant transporting road vehicles;

8. However, Cope teaches filling an empty container (container on 15, Fig. 2) with proppant (12, Fig. 2) thereby to produce a proppant filled container, the empty proppant container being filled when positioned on the respective proppant transporting road vehicles (15, Fig. 2); and

positioning an empty proppant container removably positioned on a respective proppant transporting road vehicle to receive a large volume of proppant having a substantially spherical shape therein, in close proximity to a rail spur (rails under railcar 15, Fig. 2) so that the empty container underlies a source of proppant (18, Fig. 2) received from rail cars on the rail spur; and

conveying on a conveyor (18, Fig. 2) the proppant from a proppant transporting rail vehicles to a source from which to fill the plurality of empty proppant containers; and

positioning a conveyor (5, Fig. 4) proximate a proppant transporting rail vehicle (1, Fig. 4) to receive proppant from the proppant transporting rail vehicle and thereby convey the proppant away from the proppant transporting rail vehicle when the conveyor operates; (Fig. 4, Fig. 5)

after removal of proppant from the conveyor, transporting each of the plurality of proppant filled containers away from the rail spur; (Paragraph 58)

9. It would have been obvious to one having ordinary skill in the art at the time the invention was made to fill the container of Sheesley while the container is positioned on the vehicle as taught by Cope in order to make hopper railcars usable at the quarry and eliminate the need to have containers at the quarry.

10. In Re Claim 2, Sheesley teaches vertically stacking the plurality of proppant filled containers with a loader so that one of the plurality of proppant filled containers overlies another one of the plurality of filled containers to reduce the footprint of the area required for storage of the proppant. (Fig. 3)

11. In Re Claim 4, Sheesley teaches wherein the one or more proppant transporting road vehicles comprises a plurality of proppant transporting road vehicles (290, 296, Fig. 2), and wherein the method further comprises:

staging a proppant transporting road vehicle (296, Fig. 2) so that each of the plurality of proppant transporting road vehicle receives one or more of the plurality of proppant filled containers (container at 296, Fig. 2), each container of the proppant filled containers being moved from a vertically stacked configuration (at 292, Fig. 2) and placed onto a bed of the proppant transporting road vehicle:

The vertically stacked configuration being positioned in close proximity to the rail spur (rail spur under railcars shown in Fig. 2); and

delivering the container away from the rail spur and to a well site, (296, Fig. 2) thereby increasing the efficiency with which proppant is transferred by the plurality of proppant transporting road vehicles;

12. In Re Claim 6, Sheesley teaches loading each of the plurality of proppant filled containers (328) onto a platform (Fig. 7); providing a conveyor (330) adjacent the platform and the plurality of proppant filled containers; and

discharging the proppant from each of the plurality of containers onto the conveyor. (Paragraph 89)

13. Claims 7-9 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Sheesley 2013/0206415 and in view of Cope US Publication 2009/0038242.

14. In Re Claim 7, Sheesley teaches a method of loading and transporting proppant, the method comprising:

positioning a plurality of proppant containers (270), each located on a respective proppant transporting road vehicle (284) and structurally strengthened (ridges on walls strengthen the container, Fig. 9) to receive a large volume of proppant having a substantially spherical shape (306, Fig. 5) therein, at a selected first location so that each of the plurality of empty proppant containers is near a source of proppant, each of the plurality of empty containers being separate and removable from the respective proppant transporting road vehicle (Fig. 2 and Fig. 7) and

including at least a first end surface (left end, Fig. 9) and at least a second different end surface (Right end, Fig. 9) and each of the first and second end surfaces having a plurality of upright structural support members (152) thereon to enhance integrity of the container for stacking and so that heavy weight from the proppant can be stored therein;

transferring the plurality of proppant filled containers with one or more proppant transporting road vehicles to a selected second location (284, Fig. 2);

vertically stacking the plurality structurally strengthened containers with a loader at the selected second location so that one of the plurality of proppant filled and structurally strengthened containers overlies another one of the plurality of filled and structurally strengthened containers to reduce the footprint of the area required for

storage of the proppant; (Fig. 3) and

unloading each of the plurality of proppant filled containers with an unloader (300, Fig. 3)(Paragraph 83).

15. Sheesley does not teach filling the plurality of empty proppant containers with proppant thereby to produce a plurality of proppant filled containers, the plurality of empty proppant containers being positioned on respective proppant transporting road vehicles from a stored position before being filled;

16. However, Cope teaches filling an empty proppant container (container on 15) with proppant (12, Fig. 2) thereby to produce a proppant filled container, the empty proppant container being positioned on a proppant transporting road vehicle from a stored position before being filled; (Cope teaches a trailer as the container for 15 therefore the trailer was positioned on the vehicle 15 prior to filling in Fig. 2) and

the empty proppant container (container on 15, Fig. 2) underlies a source of proppant (12, Fig. 2).

17. It would have been obvious to one having ordinary skill in the art at the time the invention was made to fill an empty proppant container positioned on a vehicle before being filled in the method of Sheesley as taught by Cope in order to make hopper railcars usable at the quarry and eliminate the need to have containers at the quarry.

18. In Re Claims 8 and 9, Sheesley teaches wherein the one or more proppant transporting road vehicles comprises a plurality of proppant transporting road vehicles (290, 296, Fig. 2), and wherein the method further comprises:

staging a proppant transporting road vehicle (296, Fig. 2) so that each of the

plurality of proppant transporting road vehicle receives one or more of the plurality of proppant filled and structurally strengthened containers (container at 296, Fig. 2), each container of the proppant filled and structurally strengthened containers being moved from a vertically stacked configuration (at 292, Fig. 2) via a loader (298, Fig. 3) and placed onto a bed of the proppant transporting road vehicle: and

delivering the container to a well site, (296, Fig. 2) thereby increasing the efficiency with which proppant is transferred by the plurality of proppant transporting road vehicles; and

delivering the container to a third location (288, 294, Fig. 2), thereby increasing the efficiency with which proppant is transferred by the plurality of proppant transporting road vehicles.

Response to Arguments

19. Applicant's arguments filed 7/11/16 have been fully considered but they are not persuasive. In response to applicant's argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In this case,

the motivation to combine would be in order to make hopper type railcars usable at the quarry and eliminate the need to have containers at the quarry.

20. In response to Applicant's remarks concerning the containers not removable in Cope, the Examiner notes that the containers of Cope are part of trailers (summary, and paragraph 58) which are removable from the vehicle 15.

21. In response to Applicant's remarks concerning Sheesley failing to describe storing empty containers before positioning them on road vehicles, the examiner notes that Cope describes trailers (summary and Paragraph 58) positioned on vehicles. The location of the trailer/container prior to positioning on the vehicle is considered storing the container before positioning on the road vehicle.

Conclusion

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Mintz 9,051,801

Cook et al. 2013/0284729

Mackenzie 2011/0162838

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GLENN MYERS whose telephone number is (571)270-1160. The examiner can normally be reached on Monday - Friday/7:30AM-5:00PM - 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/GLENN MYERS/
Examiner, Art Unit 3652

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	§	
Oren	§	Group Art Unit: 3652
	§	
Serial No.: 14/841,942	§	Confirmation No. : 1079
	§	
Filed: September 1, 2015	§	Examiner: Myers, Glenn F.
	§	
METHOD OF DELIVERING,	§	Atty. Docket No.: 074686.002702
TRANSPORTING, AND STORING	§	
PROPPANT FOR DELIVERY AND USE	§	
AT A WELL SITE	§	

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO NON-FINAL OFFICE ACTION MAILED SEPTEMBER 7, 2016

This is in response to the Non-final Office Action mailed September 7, 2016.

AMENDMENTS TO THE CLAIMS

The following listing of claims replaces all prior versions and listing of claims in the application.

Listing of claims:

1. (Currently Amended) A method of loading and transporting proppant, the method comprising:

a) positioning a plurality of empty proppant containers, each removably positioned on a trailer of a respective proppant transporting road vehicle and structurally strengthened to receive a large volume of proppant having a substantially spherical shape therein, in close proximity to a rail spur so that each of the plurality of empty proppant containers underlies a source of proppant received from rail cars on the rail spur, each of the plurality of empty containers including at least a first end surface and at least a second different end surface and each of the first and second end surfaces having a plurality of upright structural support members thereon to enhance integrity of the container for stacking and so that heavy weight from the proppant can be stored therein;

b) filling the plurality of empty proppant containers with proppant thereby to produce a plurality of proppant filled containers, the plurality of empty proppant containers being filled when positioned on the respective trailer of the respective proppant transporting road vehicles;

c) transferring the plurality of proppant filled containers with one or more proppant transporting road vehicles to a drill site; and

d) unloading each of the plurality of proppant filled containers with an unloader.

2. (Previously Presented) The method of claim 1, further comprising vertically stacking the plurality of proppant filled containers with a loader so that one of the plurality of

proppant filled containers overlies another one of the plurality of filled containers to reduce the footprint of the area required for storage of the proppant.

3. (Currently Amended) The method of claim 1, further comprising:

conveying, on a conveyor, the proppant from one or more proppant transporting rail vehicles to a source from which to fill the plurality of empty proppant containers, each proppant container of the plurality of empty proppant containers being structurally strengthened by a plurality of support members ~~members~~ braces positioned separate from a frame of the respective proppant container.

4. (Currently Amended) The method of Claim 1, wherein the one or more proppant transporting road vehicles comprises a plurality of proppant transporting road vehicles, and wherein the method further comprises:

staging the plurality of proppant transporting road vehicles so that each respective trailer of the plurality of proppant transporting road vehicles receives one or more of the plurality of proppant filled containers, each container of the proppant filled containers being moved from a vertically stacked configuration via a loader and placed onto a bed of the trailer of the proppant transporting road vehicle, the vertically stacked configuration being positioned in close proximity to the rail spur; and

delivering the container away from the rail spur and to a well site, thereby increasing the efficiency with which proppant is transferred by the plurality of proppant transporting road vehicles.

5. (Original) The method of claim 1, further comprising:

positioning a conveyor proximate a proppant transporting rail vehicle to receive proppant from the proppant transporting rail vehicle and thereby convey the proppant away from the proppant transporting rail vehicle when the conveyor operates;

positioning the plurality of empty proppant containers to receive proppant sequentially so that as one of the plurality of empty proppant containers is filled to a desired level, such one container then being removed in favor of another one of the plurality of empty proppant containers with the capacity to accept more proppant;

after removal of proppant from the conveyor, transporting each of the plurality of proppant filled containers away from the rail spur.

6. (Original) The method of claim 1, further comprising:

loading each of the plurality of proppant filled containers onto a platform;
providing a conveyor adjacent the platform and the plurality of proppant filled containers;
and
discharging the proppant from each of the plurality of containers onto the conveyor.

7. (Currently Amended) A method of loading and transporting proppant, the method comprising:

a) positioning a plurality of empty proppant containers, each located on a respective trailer of a respective proppant transporting road vehicle and structurally strengthened to receive a large volume of proppant having a substantially spherical shape therein, at a selected first location so that each of the plurality of empty proppant containers substantially underlies a source of proppant, each of the plurality of empty containers being separate and removable from the respective trailer of the respective proppant transporting road vehicle and including at least a

first end surface and at least a second different end surface and each of the first and second end surfaces having a plurality of upright structural support members thereon to enhance integrity of the container for stacking and so that heavy weight from the proppant can be stored therein;

b) filling the plurality of empty proppant containers with proppant thereby to produce a plurality of proppant filled containers, the plurality of empty proppant containers being positioned on respective trailers of the respective proppant transporting road vehicles from a stored position before being filled;

c) transferring the plurality of proppant filled containers with one or more proppant transporting road vehicles to a selected second location;

d) vertically stacking the plurality structurally strengthened containers with a loader at the selected second location so that one of the plurality of proppant filled and structurally strengthened containers overlies another one of the plurality of filled and structurally strengthened containers to reduce the footprint of the area required for storage of the proppant; and

e) unloading each of the plurality of proppant filled containers with an unloader.

8. (Currently Amended) The method of Claim 7, wherein the one or more proppant transporting road vehicles comprises a plurality of proppant transporting road vehicles, and wherein the method further comprises:

staging the plurality of proppant transporting road vehicles so that each respective trailer of the plurality of proppant transporting road vehicles receives one or more of the plurality of proppant filled and structurally strengthened containers, each container of the proppant filled and

structurally strengthened containers being moved from a vertically stacked configuration via a loader and placed onto a bed of one of the plurality of proppant transporting road vehicles; and
delivering the container to a well site, thereby increasing the efficiency with which proppant is transferred by the plurality of proppant transporting road vehicles.

9. (Currently Amended) The method of Claim 7, wherein the one or more proppant transporting road vehicles comprises a plurality of proppant transporting road vehicles, and wherein the method further comprises:

staging the plurality of proppant transporting road vehicles so that each respective trailer of the plurality of proppant transporting road vehicles receives one or more of the plurality of structurally strengthened containers, each container of the structurally strengthened containers being moved from a vertically stacked configuration via a loader and placed onto a bed of the respective trailer of one of the plurality of proppant transporting road vehicles; and

delivering the container to a third location, thereby increasing the efficiency with which proppant is transferred by the plurality of proppant transporting road vehicles.

REMARKS

This is in response to the Non-final Office Action mailed September 7, 2016. By the present response, Claims 1, 3, 4, and 7-9 are amended without prejudice, including the doctrine of equivalents. No new matter has been added. Upon entry of the amendments, Claims 1-9 will be pending in the present application. Applicant respectfully requests reconsideration and allowance of the pending claims.

Rejection under § 103

In the Office Action, the Examiner rejected Claims 1-9 under 35 U.S.C. § 103(a) as allegedly unpatentable over Sheesley (U.S. Patent Publication No. 2013/0206415) and Cope (U.S. Patent Publication No. 2009/0038242). Applicant respectfully disagrees and traverses this rejection.

There is no objective reason to combine the cited references because Sheesley teaches away from the Examiner's proposed motivation to combine the references.

In the response filed on July 11, 2016, Applicant argued that there is no reason to combine Cope and Sheesley because both are directed to different problems, and attempt to solve these different problems with different solutions. In the Office Action, the Examiner contended that there is motivation to combine Cope and Sheesley "to make hopper type railcars usable at the quarry and eliminate the need to have containers at the quarry." *See* Office Action, pages 8 and 9. The Examiner's proposed rationale for combination, however, is directly opposed to Sheesley, and therefore is an improper basis on which to combine Sheesley and Cope. For example, Sheesley describes that, by using the containers at the quarry, "it can be easily seen that the sand is being handled fewer times by the use of the modified cargo container 270. This results in considerably less expense, which reduces the price of fracing sand or other proppants

to the well operator. The reduction in price can be in the millions of dollars per well.” Sheesley, paragraph 82. As such, Sheesley teaches directly against the Examiner’s proposed motivation to combine the references, and therefore there is no motivation to combine the references. For at least this reason, among others, Applicant respectfully requests withdrawal of the rejection of Claims 1 and 7 and the claims depending therefrom.

The cited references, taken alone or in hypothetical combination, fail to describe each feature of independent Claim 1.

The cited references, taken alone or in hypothetical combination, fail to describe proppant containers that are removably positioned on trailers of road vehicles and then subsequently filled when positioned on the road vehicle, among other features, as generally recited by the embodiment claimed in independent Claim 1. In the Office Action, the Examiner contended that the trailers of the vehicles 1 are removable. *See* Office Action, page 9. Assuming, *arguendo*, that the trailer includes a container, which Applicant does not admit and asserts is an improper interpretation of Cope at least because Cope does not describe the vehicle 1 with any specificity, the alleged container and trailer are integrally formed and therefore the container is not removable from the trailer of the vehicle 1, as generally recited in the claims. Indeed, the container portion cannot be removed from the trailer at all. Furthermore, Sheesley fails to teach loading the containers from the rail cars, as generally recited in the claims, and as described above, the requisite motivation to do so. Accordingly, Applicant respectfully requests withdrawal of the rejection of Claim 1 and the claims depending therefrom.

The cited references, taken alone or in hypothetical combination, fail to describe each feature of independent Claim 7.

The cited references, taken alone or in hypothetical combination, fail to describe proppant containers that are separate and removable from trailers of road vehicles and positioning empty

proppant containers on the trailers of the road vehicles from storage before filling, among other features, as generally recited in independent Claim 7. In the Office Action, the Examiner cited Cope, with reference to FIG. 2 for the contention that Cope describes filling an empty proppant container. *See* Office Action, page 7. However, Cope is silent as to the proppant container being separate and removable from the trailer of the road vehicle, as described above. Indeed, Cope does not describe the trucks 15 of FIG. 2 with any specificity. Furthermore, Sheesley fails to obviate the deficiencies of Cope. Indeed, FIG. 2 of Sheesley describes positioning filled containers 270 on a truck 278. *See* Sheesley, FIG. 2. Moreover, Sheesley further describes storage of filled containers 282, and does not describe storing empty containers before positioning the containers on road vehicles. *See id.* Because the cited references fail to describe each feature of the embodiment claimed in Claim 7, Applicant respectfully requests withdrawal of the rejection of Claim 7 and the claims depending therefrom.

Remarks and Amendments Made Without Prejudice

In commenting upon the cited documents in order to facilitate a better understanding of the differences that are expressed in both the original and replacement claims, certain details of distinction between the cited documents and the claimed embodiments of the invention have been mentioned, as well as the submission of replacement claims under Article 19, without prejudice as to patentability, including the doctrine of equivalents, even though such differences do not appear in all of the claims. It is not intended by mentioning any such unclaimed distinctions to create any implied limitations in either the original or replacement claims. Not all of the distinctions between the cited documents and Applicant's claimed embodiments of the invention have been made by Applicant. For the foregoing reasons, Applicant reserves the right

without prejudice to submit additional evidence showing the distinctions of Applicant's claimed embodiments of the invention and why such distinctions demonstrate that the claimed embodiments of the invention are novel and include one or more inventive steps in view of the cited documents.

The foregoing remarks, in the course of explanation, may employ shortened or more specific or variant descriptions of some of the claim language. Such descriptions are not intended to limit the scope of either the original or replacement claims; the actual claim language should be considered in each case. Furthermore, the remarks are not to be considered exhaustive of the facets of the claimed embodiments of the invention, which render them patentable, being only examples of certain advantageous features and differences that Applicant's representatives choose to mention at this time.

Conclusion

The foregoing response is full, complete, and timely filed. Amendments to the claims are made without prejudice, including under the doctrine of equivalents. In addition, the comments made herein are without prejudice. Applicant respectfully requests reconsideration of the instant application in light of the foregoing response and amendments. If any additional fees are necessary for continued prosecution of this Application, the commissioner is hereby authorized to charge those fees to **Hogan Lovells US LLP's Deposit Account Number 506763 (074686.002702 JSW/jmt)**.

Respectfully submitted,

Date: December 6, 2016

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/841,942	09/01/2015	John Oren	074686.002702	1079
132858	7590	01/12/2017	EXAMINER	
Hogan Lovells US LLP Bank of America Center 700 Louisiana Street Suite 4300 Houston, TX 77002			MYERS, GLENN F	
			ART UNIT	PAPER NUMBER
			3652	
			NOTIFICATION DATE	DELIVERY MODE
			01/12/2017	ELECTRONIC

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hlusdocketing@hoganlovells.com

Office Action Summary	Application No. 14/841,942	Applicant(s) OREN, JOHN	
	Examiner GLENN MYERS	Art Unit 3652	AIA (First Inventor to File) Status No

-- 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 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 12/6/16.
☐ 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) 1-9 is/are pending in the application.
5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☒ Claim(s) 1-6 is/are allowed.
- 7) ☒ Claim(s) 7-9 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 ____ 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)
- 2) ☒ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)
Paper No(s)/Mail Date ____.
- 3) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 4) ☐ Other: ____.

1. The present application is being examined under the pre-AIA first to invent provisions.

DETAILED ACTION

Information Disclosure Statement

2. The information disclosure statements (IDS) submitted on 9/1/16, 9/20/16, 9/27/16, 10/6/16 and 12/9/16 are being considered by the examiner.

Claim Rejections - 35 USC § 103

3. The following is a quotation of pre-AIA 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 7 is rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Krenek 2009/0078410 and in view of Beckel et al. 2008/0008562, hereafter referred to as Beckel.

5. In Re Claim 7, Krenek teaches a method of loading and transporting proppant, the method comprising:

positioning a plurality of empty proppant containers (101, Fig. 1), each located on a respective trailer (175, Fig. 1) of a respective proppant transporting road vehicle (paragraph 26) and structurally strengthened (structural ribs shown on two opposing sides, Fig. 2) to receive a large volume of proppant (paragraph 37) having a substantially spherical shape (300, Fig. 3) therein, at a selected first location so that each of the plurality of empty proppant containers substantially underlies a source of

proppant, (Paragraph 41 teaches filling from above in which the container would have to underlie at least a portion of the source of proppant) each of the plurality of empty containers being separate and removable from the respective trailer of the respective proppant transporting road vehicle (Fig. 1 and Fig. 2) and including at least a first end surface and at least a second different end surface (remaining 2 opposing sides, Fig. 2) and each of the first and second end surfaces having a plurality of upright structural support members (Ribs On remaining two opposing sides, Fig. 2) thereon to enhance integrity of the container for stacking and so that heavy weight from the proppant can be stored therein;

filling the plurality of empty proppant containers with proppant thereby to produce a plurality of proppant filled containers, the plurality of empty proppant containers being positioned on respective trailers of the respective proppant transporting road vehicles from a stored position before being filled; (Paragraph 41) and

vertically stacking the plurality structurally strengthened containers with a loader at the selected second location so that one of the plurality of proppant filled and structurally strengthened containers overlies another one of the plurality of filled and structurally strengthened containers to reduce the footprint of the area required for storage of the proppant; (Paragraph 38) and

unloading each of the plurality of proppant filled containers with an unloader (180, Fig. 1).

6. Krenek does not teach transferrin the plurality of proppant filled containers with one or more proppant transporting road vehicles to a selected second location.

7. However, Beckel teaches transferring a plurality of proppant filled containers (containers on 112, Fig. 6) with one or more proppant transporting road vehicles (112, Fig. 6) to a second location (destination of trucks 112).

8. It would have been obvious to one having ordinary skill in the art at the time the invention was made to transfer proppant filled containers with road vehicles to a second location in the method of Krenek as taught by Beckel in order to move the containers into better unloading positions within the well site.

9. Claims 8 and 9 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Krenek/Beckel as applied to claim 7 above, and further in view of Sheesley 2013/0206415.

10. In Re Claims 8 and 9, Krenek/Beckel teaches the method of Claim 7 as discussed above.

11. Krenek/Beckel does not teach each container of the proppant filled and structurally strengthened containers being moved from a vertically stacked configuration via a loader and placed onto a bed of one of the plurality of proppant transporting road vehicles.

12. However, Sheesley teaches wherein the one or more proppant transporting road vehicles comprises a plurality of proppant transporting road vehicles (290, 296, Fig. 2), and wherein the method further comprises:

staging a proppant transporting road vehicle (296, Fig. 2) so that each respective trailer of the plurality of proppant transporting road vehicle receives one or more of the plurality of proppant filled and structurally strengthened containers (container at 296,

Fig. 2), each container of the proppant filled and structurally strengthened containers being moved from a vertically stacked configuration (at 292, Fig. 2) via a loader (298, Fig. 3) and placed onto a bed of the respective trailer of one of the proppant transporting road vehicles: and

delivering the container to a well site, (296, Fig. 2) thereby increasing the efficiency with which proppant is transferred by the plurality of proppant transporting road vehicles; and

delivering the container to a third location (288, 294, Fig. 2), thereby increasing the efficiency with which proppant is transferred by the plurality of proppant transporting road vehicles.

13. It would have been obvious to one having ordinary skill in the art at the time the invention was made to add moving the proppant filled and structurally strengthened containers via a loader from a vertically stacked configuration and placed onto a bed of one of the plurality of proppant transporting road vehicles in the method of Krenek/Beckel as taught by Sheesley in order to handle the proppant filled containers at the site with a minimal foot print.

Allowable Subject Matter

14. Claims 1-6 are allowed.

Response to Arguments

15. Applicant's arguments with respect to claims 7-9 have been considered but are moot because the arguments do not apply to any of the references being used in the current rejection.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GLENN MYERS whose telephone number is (571)270-1160. The examiner can normally be reached on Monday - Friday/7:30AM-5:00PM - 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/GLENN MYERS/
Examiner, Art Unit 3652

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	§	
Oren	§	Group Art Unit: 3652
	§	
Serial No.: 14/841,942	§	Confirmation No. : 1079
	§	
Filed: September 1, 2015	§	Examiner: Myers, Glenn F.
	§	
METHOD OF DELIVERING,	§	Atty. Docket No.: 074686.002702
TRANSPORTING, AND STORING	§	
PROPPANT FOR DELIVERY AND USE	§	
AT A WELL SITE	§	

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO FINAL OFFICE ACTION MAILED JANUARY 12, 2017

This is in response to the Final Office Action mailed January 12, 2017.

AMENDMENTS TO THE CLAIMS

The following listing of claims replaces all prior versions and listing of claims in the application.

Listing of claims:

1. (Previously Presented) A method of loading and transporting proppant, the method comprising:

a) positioning a plurality of empty proppant containers, each removably positioned on a trailer of a respective proppant transporting road vehicle and structurally strengthened to receive a large volume of proppant having a substantially spherical shape therein, in close proximity to a rail spur so that each of the plurality of empty proppant containers underlies a source of proppant received from rail cars on the rail spur, each of the plurality of empty containers including at least a first end surface and at least a second different end surface and each of the first and second end surfaces having a plurality of upright structural support members thereon to enhance integrity of the container for stacking and so that heavy weight from the proppant can be stored therein;

b) filling the plurality of empty proppant containers with proppant thereby to produce a plurality of proppant filled containers, the plurality of empty proppant containers being filled when positioned on the respective trailer of the respective proppant transporting road vehicles;

c) transferring the plurality of proppant filled containers with one or more proppant transporting road vehicles to a drill site; and

d) unloading each of the plurality of proppant filled containers with an unloader.

2. (Previously Presented) The method of claim 1, further comprising vertically stacking the plurality of proppant filled containers with a loader so that one of the plurality of

proppant filled containers overlies another one of the plurality of filled containers to reduce the footprint of the area required for storage of the proppant.

3. (Previously Presented) The method of claim 1, further comprising:

conveying, on a conveyor, the proppant from one or more proppant transporting rail vehicles to a source from which to fill the plurality of empty proppant containers, each proppant container of the plurality of empty proppant containers being structurally strengthened by a plurality of support braces positioned separate from a frame of the respective proppant container.

4. (Previously Presented) The method of Claim 1, wherein the one or more proppant transporting road vehicles comprises a plurality of proppant transporting road vehicles, and wherein the method further comprises:

staging the plurality of proppant transporting road vehicles so that each respective trailer of the plurality of proppant transporting road vehicles receives one or more of the plurality of proppant filled containers, each container of the proppant filled containers being moved from a vertically stacked configuration via a loader and placed onto a bed of the trailer of the proppant transporting road vehicle, the vertically stacked configuration being positioned in close proximity to the rail spur; and

delivering the container away from the rail spur and to a well site, thereby increasing the efficiency with which proppant is transferred by the plurality of proppant transporting road vehicles.

5. (Original) The method of claim 1, further comprising:

positioning a conveyor proximate a proppant transporting rail vehicle to receive proppant from the proppant transporting rail vehicle and thereby convey the proppant away from the proppant transporting rail vehicle when the conveyor operates;

positioning the plurality of empty proppant containers to receive proppant sequentially so that as one of the plurality of empty proppant containers is filled to a desired level, such one container then being removed in favor of another one of the plurality of empty proppant containers with the capacity to accept more proppant;

after removal of proppant from the conveyor, transporting each of the plurality of proppant filled containers away from the rail spur.

6. (Original) The method of claim 1, further comprising:

loading each of the plurality of proppant filled containers onto a platform;
providing a conveyor adjacent the platform and the plurality of proppant filled containers;
and

discharging the proppant from each of the plurality of containers onto the conveyor.

7-9. (Canceled)

REMARKS

This is in response to the Final Office Action mailed January 12, 2017. By the present response, Claims 7-9 are canceled without prejudice. No new matter has been added. Upon entry of the amendments, Claims 1-6 will be pending in the present application. Applicant respectfully requests allowance of the pending claims.

Rejection under § 103

In the Office Action, the Examiner rejected Claim 7 under 35 U.S.C. § 103(a) as allegedly unpatentable over Krenek (U.S. Patent Publication No. 2009/0078410) and Beckel (U.S. Patent Publication No. 2008/0008562); and Claims 8 and 9 as allegedly unpatentable over Krenek, Beckel, and Sheesley (U.S. Patent Publication No. 2013/0206415). Applicant disagrees, but has canceled Claims 7-9, without prejudice, as presented above. Accordingly, Applicant respectfully asserts the rejections are moot.

Allowable Subject Matter

In the Office Action, the Examiner indicated that Claims 1-6 are allowed. *See* Office Action, page 5. Applicant thanks the Examiner for the indication of allowable subject matter.

Remarks and Amendments Made Without Prejudice

In commenting upon the cited documents in order to facilitate a better understanding of the differences that are expressed in both the original and replacement claims, certain details of distinction between the cited documents and the claimed embodiments of the invention have been mentioned, as well as the submission of replacement claims under Article 19, without

prejudice as to patentability, including the doctrine of equivalents, even though such differences do not appear in all of the claims. It is not intended by mentioning any such unclaimed distinctions to create any implied limitations in either the original or replacement claims. Not all of the distinctions between the cited documents and Applicant's claimed embodiments of the invention have been made by Applicant. For the foregoing reasons, Applicant reserves the right without prejudice to submit additional evidence showing the distinctions of Applicant's claimed embodiments of the invention and why such distinctions demonstrate that the claimed embodiments of the invention are novel and include one or more inventive steps in view of the cited documents.

The foregoing remarks, in the course of explanation, may employ shortened or more specific or variant descriptions of some of the claim language. Such descriptions are not intended to limit the scope of either the original or replacement claims; the actual claim language should be considered in each case. Furthermore, the remarks are not to be considered exhaustive of the facets of the claimed embodiments of the invention, which render them patentable, being only examples of certain advantageous features and differences that Applicant's representatives choose to mention at this time.

Conclusion

The foregoing response is full, complete, and timely filed. Amendments to the claims are made without prejudice, including under the doctrine of equivalents. In addition, the comments made herein are without prejudice. Applicant respectfully requests reconsideration of the instant application in light of the foregoing response and amendments. If any additional fees are necessary for continued prosecution of this Application, the commissioner is hereby authorized to charge those fees to **Hogan Lovells US LLP's Deposit Account Number 506763 (074686.002702 JSW/jmt)**.

Respectfully submitted,

Date: January 23, 2017

/Jeffrey S. Whittle/
Jeffrey S. Whittle
Registration No. 36,382
Hogan Lovells US LLP
700 Louisiana Street, Suite 4300
Houston, TX 77002
Voice: (713) 632-1405
Fax: (800) 632-1401



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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NOTICE OF ALLOWANCE AND FEE(S) DUE

132858 7590 02/06/2017
Hogan Lovells US LLP
Bank of America Center
700 Louisiana Street
Suite 4300
Houston, TX 77002

EXAMINER

MYERS, GLENN F

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 02/06/2017

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/841,942	09/01/2015	John Oren	074686.002702	1079

TITLE OF INVENTION: Method of Delivering, Transporting, and Storing Proppant for Delivery and Use at a Well Site

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	UNDISCOUNTED	\$960	\$0	\$0	\$960	05/08/2017

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the ENTITY STATUS shown above. If the ENTITY STATUS is shown as SMALL or MICRO, verify whether entitlement to that entity status still applies.

If the ENTITY STATUS is the same as shown above, pay the TOTAL FEE(S) DUE shown above.

If the ENTITY STATUS is changed from that shown above, on PART B - FEE(S) TRANSMITTAL, complete section number 5 titled "Change in Entity Status (from status indicated above)".

For purposes of this notice, small entity fees are 1/2 the amount of undiscounted fees, and micro entity fees are 1/2 the amount of small entity fees.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

**Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885**

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

132858 7590 02/06/2017
Hogan Lovells US LLP
Bank of America Center
700 Louisiana Street
Suite 4300
Houston, TX 77002

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/841,942	09/01/2015	John Oren	074686.002702	1079

TITLE OF INVENTION: Method of Delivering, Transporting, and Storing Proppant for Delivery and Use at a Well Site

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	UNDISCOUNTED	\$960	\$0	\$0	\$960	05/08/2017

EXAMINER	ART UNIT	CLASS-SUBCLASS
MYERS, GLENN F	3652	414-809000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

- (1) The names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
- (2) The name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
- 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The director is hereby authorized to charge the required fee(s), any deficiency, or credits any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ Applicant certifying micro entity status. See 37 CFR 1.29
- ☐ Applicant asserting small entity status. See 37 CFR 1.27
- ☐ Applicant changing to regular undiscounted fee status.

NOTE: Absent a valid certification of Micro Entity Status (see forms PTO/SB/15A and 15B), issue fee payment in the micro entity amount will not be accepted at the risk of application abandonment.

NOTE: If the application was previously under micro entity status, checking this box will be taken to be a notification of loss of entitlement to micro entity status.

NOTE: Checking this box will be taken to be a notification of loss of entitlement to small or micro entity status, as applicable.

NOTE: This form must be signed in accordance with 37 CFR 1.31 and 1.33. See 37 CFR 1.4 for signature requirements and certifications.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/841,942	09/01/2015	John Oren	074686.002702	1079
132858	7590	02/06/2017	EXAMINER	
Hogan Lovells US LLP Bank of America Center 700 Louisiana Street Suite 4300 Houston, TX 77002			MYERS, GLENN F	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 02/06/2017

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (Applications filed on or after May 29, 2000)

The Office has discontinued providing a Patent Term Adjustment (PTA) calculation with the Notice of Allowance.

Section 1(h)(2) of the AIA Technical Corrections Act amended 35 U.S.C. 154(b)(3)(B)(i) to eliminate the requirement that the Office provide a patent term adjustment determination with the notice of allowance. See Revisions to Patent Term Adjustment, 78 Fed. Reg. 19416, 19417 (Apr. 1, 2013). Therefore, the Office is no longer providing an initial patent term adjustment determination with the notice of allowance. The Office will continue to provide a patent term adjustment determination with the Issue Notification Letter that is mailed to applicant approximately three weeks prior to the issue date of the patent, and will include the patent term adjustment on the patent. Any request for reconsideration of the patent term adjustment determination (or reinstatement of patent term adjustment) should follow the process outlined in 37 CFR 1.705.

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

OMB Clearance and PRA Burden Statement for PTOL-85 Part B

The Paperwork Reduction Act (PRA) of 1995 requires Federal agencies to obtain Office of Management and Budget approval before requesting most types of information from the public. When OMB approves an agency request to collect information from the public, OMB (i) provides a valid OMB Control Number and expiration date for the agency to display on the instrument that will be used to collect the information and (ii) requires the agency to inform the public about the OMB Control Number's legal significance in accordance with 5 CFR 1320.5(b).

The information collected by PTOL-85 Part B is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Notice of Allowability	Application No. 14/841,942	Applicant(s) OREN, JOHN	
	Examiner GLENN MYERS	Art Unit 3652	AIA (First Inventor to File) Status No

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

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1/23/17 after final amendment.
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.
2. ☐ 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.
3. ☒ The allowed claim(s) is/are 1-6. As a result of the allowed claim(s), 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.
4. ☐ 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)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Examiner's Amendment/Comment |
| 2. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 6. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| 3. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 7. <input type="checkbox"/> Other _____. |
| 4. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. | |

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1. The present application is being examined under the pre-AIA first to invent provisions.

REASONS FOR ALLOWANCE

2. The following is an examiner's statement of reasons for allowance: Claims 1-6 are allowable because the prior art does not teach positioning structurally strengthened containers on a trailer underlying a source of proppant from a rail car and filling the containers while positioned on the trailer and then transferring the containers to a drill site and unloading each container as recited in the claims. Cope 2009/0038242, Sheesley 2014/0166647 and Kreneck 2009/0078410 are considered to be the closest prior art to the instant invention. Though the prior art teaches many of the claimed elements, it would not have been obvious to pick and choose elements from the prior art and combine them in such a way as to arrive at the Applicant's invention without the benefit of the Applicant's disclosure.

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GLENN MYERS whose telephone number is (571)270-1160. The examiner can normally be reached on Monday - Friday/7:30AM-5:00PM - 1st Friday Off.

Examiner interviews are available via telephone, in-person, and video conferencing using a USPTO supplied web-based collaboration tool. To schedule an interview, applicant is encouraged to use the USPTO Automated Interview Request (AIR) at <http://www.uspto.gov/interviewpractice>.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/GLENN MYERS/
Examiner, Art Unit 3652