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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/992,126	11/19/2004	Robert Rhett Siagel	364776-P0001	7412
47604	7590	07/13/2007	EXAMINER KATCHEVES, BASIL S	
DLA PIPER US LLP P. O. BOX 9271 RESTON, VA 20195			ART UNIT	PAPER NUMBER
			3635	
			MAIL DATE	DELIVERY MODE
			07/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/992,126

Applicant(s)

SLAGEL, ROBERT RHETT

Examiner

Basil Katcheves

Art Unit

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-- 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 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, 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 24 April 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) 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

- 4) Claim(s) 1-30 and 34-51 is/are pending in the application.
- 4a) Of the above claim(s) 31-33 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-30 and 34-51 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) 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).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

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).
- a) All b) Some * c) None of:
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) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 4/24/07.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

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DETAILED ACTION

Election/Restrictions

Claims 31-33 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected method of making a portable access unit, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 4/24/07.

Pending claims 1-30 and 34-51 are examined below.

Double Patenting

This double patenting rejection is necessitated by the applicant's filing date of 4/10/07 of application number 11/733464.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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Claims 1-30 and 34-51 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over copending Application No. 11/733,464. Although the conflicting claims are not identical, they are not patentably distinct from each other.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-3, 25-30, 46 are substantially similar to claim 1 of '464.

Claims 4-9 are substantially similar to claim 2 of '464.

Claims 10-12 are obvious in view of U.S. Patent No. 4,513,545 to Hopkins Jr.

Hopkins discloses use of a fence (fig. 14). It would have been obvious to one having ordinary skill in the art at the time the invention was made to add a fence in order to increase security.

Claims 13, 14 are substantially similar to claim 9 of '464.

Claims 15, 16 are substantially similar to claim 10 of '464.

Claims 17-24, 47 are obvious design choices. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use doors having windows as doors with windows are commonly used in dwelling units and increases light transmissions from room to room.

Claims 34-36 are substantially similar to claim 6 of '464.

Claims 37-39 are substantially similar to claim 3 of '464.

Claims 40-42 are substantially similar to claim 4 of '464.

Claims 43-45 are substantially similar to claim 5 of '464.

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Claims 48-51 are substantially similar to claims 34-37, respectively, of '464.

Claim Rejections - 35 USC § 103

The following is a quotation of 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.

Claims 1-9, 17-19, 25-30, 40-46, 48, 49, 50 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,706,614 to Wiley Jr. et al. in view of U.S. Patent No. 5,727,352 to Bared et al.

Regarding claims 1, 3, 46, Wiley discloses a standard modular and portable shipping container (fig. 1) converted into rooms (fig. 3). However, Wiley does not particularly disclose the floorplan of the converted container as having passing rooms. Bared discloses a modular and portable building structure having a passing room (fig. 5: area within building) having first passing room opening (125) a second passing room opening (30), a barrier device between the two (130), with a walkway between the two openings (area through door (1350 of barrier). Also, Wiley in view of Bared discloses the inherent capability of being capable of restricting access between an open and an enclosed area if positioned between the areas.

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Regarding claim 2, 48, 49, Wiley discloses a standard modular and portable shipping container (fig. 1) converted into rooms (fig. 3). However, Wiley does not particularly disclose the floorplan of the converted container as having passing rooms. Bared discloses a modular and portable building structure having a passing room (fig. 5: area within building) having first passing room opening (125) a second passing room opening (30), a barrier device between the two (wall 130), with a walkway between the two openings (area through door 135 of barrier wall). Also, Wiley in view of Bared discloses a control room (200) adjacent to the passing room and having a wall (215) between it and the passing room.

Regarding claims 4-9, Wiley in view of Bared discloses a security device (door 135) barrier.

Regarding claims 17-19, Wiley in view of Bared does not disclose a window in the door. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a window in a door, since windows, large or small, are common on most doors which are used in dwelling structures.

Regarding claims 25-27, Wiley in view of Bared are in turnkey states when prepared.

Regarding claims 28-30, Wiley in view of Bared are inherently capable of customization.

Regarding claims 40-45, Wiley in view of Bared disclose the security device (135) as located in the first space and outside the passing room as it opens.

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Regarding claims 50 and 51, the control room is inherently capable of visually monitoring the barrier.

Claims 10-12, 20, 47, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,706,614 to Wiley Jr. et al. In view of U.S. Patent No. 5,727,352 to Bared et al. further in view of U.S. Patent No. 4,513,545 to Hopkins Jr.

Regarding claim 10, 11, 12, 47, Wiley in view of Bared does not disclose the use of a fence attached to an outside of the building structure. Hopkins discloses a modular building structure with a fence attached to a section (fig. 14). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wiley in view of Bared by adding a fence onto a section of the building in order to retain privacy and security since fences are commonly used for separating and protecting property.

Regarding claims 20, Wiley in view of Bared further in view of Hopkins does not disclose a window in the door. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a window in a door, since windows, large or small, are common on most doors which are used in dwelling structures.

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Claims 13-16, 21-24, 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,706,614 to Wiley Jr. et al. in view of U.S. Patent No. 5,727,352 to Bared et al. further in view of U.S. Patent No. 3,482,037 to Brown et al.

Regarding claim 13-16, Wiley in view of Bared does not disclose an alarm control panel in the control room for securing the barrier. Brown discloses a control panel for a security system (fig. 1) which allows access. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wiley in view of Bared by adding an alarm security system, as disclosed by Brown, in order to increase security.

Regarding claims 21-24, Wiley in view of Bared does not disclose a window in the door. Brown discloses a window in a door (fig. 4). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the window of Brown, since windows, large or small, are common on most doors which are used in dwelling structures.

Regarding claims 37-39, Wiley in view of Bared do not disclose facial recognition or electronic key locks. Brown discloses the use of facial recognition (fig. 1: 83) and electronic locks (fig. 1: 60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wiley in view of Bared by adding these security features, as disclosed by Brown, in order to increase the security of the structure for safety concerns.

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Claims 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,706,614 to Wiley Jr. et al. in view of U.S. Patent No. 5,727,352 to Bared et al. further in view of U.S. Patent no. 5,579,613 to Carr.

Regarding claims 34-36, Wiley in view of Bared does not disclose the use of a sliding door. Carr discloses a portable building having sliding doors (fig. 6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wiley in view of Bared by using a sliding door, as disclosed by Carr, since sliding doors are light, and commonly used in the art of modular structures.

Response to Arguments

Applicant's arguments filed 1/18/07 have been fully considered but they are moot under new grounds of rejections necessitated by the applicant's amendment.

Conclusion

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

The cited patents listed on the included form PTO-892 further show the state of the art with respect to modular dwellings in general.

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

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§ 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 Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (571) 272-6842.

BK


Basil Katcheves

6/26/07

Primary Examiner