



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

15/925,314

03/19/2018

Shengyong Yang

withu1

6809

36255 7590 09/26/2019
ROSS PATENT LAW OFFICE
P.O. BOX 2138
DEL MAR, CA 92014

EXAMINER

CANFIELD, ROBERT

ART UNIT

PAPER NUMBER

3635

NOTIFICATION DATE

DELIVERY MODE

09/26/2019

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):

john@rosspatent.com
rosspatent@pacbell.net

Notice of Pre-AIA or AIA Status

1. The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.
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and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.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 6/26/19 has been entered. Claims 1-14 remain pending.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-14 are rejected under 35 U.S.C. 112(a) or 35 U.S.C. 112 (pre-AIA), first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor or a joint inventor, or for pre-AIA the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 has been amended to recites that there is a disconnection between said center top cap, said center bottom cap and said center pole. As best understood, this limitation appears broader than that supported by the original disclosure. No support is

found in the original disclosure for disconnecting the center pole from the center top cap which as best understood appears to be covered by the amended claim language. All embodiments are directed towards disconnecting the center pole from only the bottom center cap in the unlocked state. If applicant believes there is support for the alternative of disconnecting the center top cap from the center pole the examiner requests specifically where support may be found for such an embodiment.

5. Claims 1-14 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.

Claim 1 has been amended to recite "when there is a disconnection between said center top cap, said center bottom cap and said center pole." It is not clear what the intended metes and bounds of this limitation are. It appears to cover a disconnection between any and all of the three components which as best understood is not what is disclosed. As previously noted all disclosed embodiments are directed towards disconnecting the center pole from only the bottom center cap in the unlocked state. If applicant believes there is support for the alternative of disconnecting the center top cap from the center pole the examiner requests specifically where support may be found for such an embodiment. The examiner suggests amending the claim language to - - when there is a disconnection between [[said center top cap,]] said center bottom cap and said center pole - -.

6. 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 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); *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 nonstatutory double patenting provided the reference application or patent either is shown to be commonly owned with the examined application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement. See MPEP § 717.02 for applications subject to examination under the first inventor to file provisions of the AIA as explained in MPEP § 2159. See MPEP §§ 706.02(l)(1) - 706.02(l)(3) for applications not subject to examination under the first inventor to file provisions of the AIA. A terminal disclaimer must be signed in compliance with 37 CFR 1.321(b).

The USPTO Internet website contains terminal disclaimer forms which may be used. Please visit www.uspto.gov/patent/patents-forms. The filing date of the application in which the form is filed determines what form (e.g., PTO/SB/25, PTO/SB/26, PTO/AIA/25, or PTO/AIA/26) should be used. A web-based eTerminal Disclaimer may be filled out completely online using web-screens. An eTerminal Disclaimer that meets all requirements is auto-processed and approved immediately upon submission. For more information about eTerminal Disclaimers, refer to www.uspto.gov/patents/process/file/efs/guidance/eTD-info-I.jsp.

7. Claims 1-14 are rejected on the ground of nonstatutory double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 10,273,710. Although the claims at issue are not identical, they are not patentably distinct from each other because the subject matter of the instant claims is included within the patent claims.

8. Claim 1 as best understood is rejected under 35 U.S.C. 102(a)(1) as being anticipated by U.S. Patent 4,256,129 to Gilsenan.

Gilsenan provides legs 70, outer retractable units 50, inner retractable units 30 and central lock 10. Central lock 10 comprises upper cap 11, bottom cap 13 and center pole 22. As best understood the disconnection shown in figure 1 meets the limitation "when there is a disconnection between said center top cap, said center bottom cap and said center pole."

9. Claim 1 as best understood is rejected under 35 U.S.C. 102(a)(1) as being anticipated by U.S. 2005/0016573 to Wu.

Wu provides legs 2, outer retractable units 3, inner retractable units 4 and a central lock. Central lock comprises upper cap 8, bottom cap 92 and center pole 22. As best understood the disconnection shown in figure 4 meets the limitation “when there is a disconnection between said center top cap, said center bottom cap and said center pole.”

10. Applicant's arguments filed 6/26/19 have been fully considered but they are not persuasive.

Applicant's argument that the rejection under 35 USC 112(a) has been overcome as applicant amended the claims in accordance with the examiner's suggestions is not persuasive. The amended language is both unclear and does not appear commensurate with the original disclosure for the reasons indicated in the above 112(a/b) rejections. No suggestions were previously provided but as noted above the examiner suggests amending the claim language to - - when there is a disconnection between [[said center top cap,]] said center bottom cap and said center pole - -.

Applicant argues that the double patenting rejection has been overcome by the filing of a terminal disclaimer. As noted in the advisory action mailed 7/05/19 the terminal disclaimer has not been approved.

The terminal disclaimer does not comply with 37 CFR 1.321 because:

This application was filed on or after September 16, 2012. The party identified in the terminal disclaimer is not the applicant of record. A request to change the applicant

under 37 CFR 1.46(c) must be filed and must include an application data sheet specifying the applicant in the applicant information section and comply with 37 CFR 3.71 and 3.73. To be reconsidered, the terminal disclaimer must be filed with the request under 37 CFR 1.46(c).

Also note the double patenting rejection has been updated to reflect that U.S. Application serial number 15/549,164 has subsequently issued as U.S. Patent 10,273,710.

The amendments to claims 2-4 overcome the previous rejections under 35 U.S.C. 112(b).

The argument concerning US 2016/0002949 to Yang are persuasive and the rejections under 35 USC 102(a)(1) have been withdrawn.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT CANFIELD whose telephone number is (571)272-6840. The examiner can normally be reached on M-F 10-6, some Saturdays.

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, Joshua Michener can be reached on 571-272-1467. 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.

ROBERT CANFIELD
Primary Examiner
Art Unit 3635

/Robert Canfield/
Primary Examiner, Art Unit 3635

<i>Notice of References Cited</i>	Application/Control No. 15/925,314		Applicant(s)/Patent Under Reexamination Yang et al.	
	Examiner ROBERT CANFIELD		Art Unit 3635	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	CPC Classification	US Classification
*	A	US-20190277053-A1	09-2019	Yang; Shengyong	E04H15/50	1/1
*	B	US-20190234102-A1	08-2019	Lu; Nengxiao	E04H15/46	1/1
*	C	US-20100319743-A1	12-2010	ZHOU; Nanqing	E04H15/28	135/135
*	D	US-20050016573-A1	01-2005	Wu, Weidan	E04H15/48	135/98
*	E	US-6345639-B1	02-2002	Rousselle; Gisele B.	E04H15/28	135/126
*	F	US-4256129-A	03-1981	Gilsenan; John T.	E04H15/50	135/143
*	G	US-3929146-A	12-1975	Maiken; Francis H.	E04H15/28	135/98
*	H	US-2530765-A	11-1950	GREENUP ROY T	E04H15/28	135/98
*	I	US-20190234101-A1	08-2019	Lu; Nengxiao	E04H15/50	1/1
	J					
	K					
	L					
	M					

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	CPC Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

<i>Search Notes</i> 	Application/Control No. 15/925,314	Applicant(s)/Patent Under Reexamination Yang et al.
	Examiner ROBERT CANFIELD	Art Unit 3635

CPC - Searched*		
Symbol	Date	Examiner
E04H 15/28, 32, 36, 44, 48, 50	09/25/2018	RC
A45B25/08		
E05B65/00 -crossed with text		
E04H15/44, 48, 50, 52 - all databases except FPRS	09/20/2019	RC

CPC Combination Sets - Searched*		
Symbol	Date	Examiner

US Classification - Searched*			
Class	Subclass	Date	Examiner
135	20.3, 24, 39, 40, 135, 145, 147, 159	09/25/2018	RC
70	34		
292	150		

* See search history printout included with this form or the SEARCH NOTES box below to determine the scope of the search.

Search Notes		
Search Notes	Date	Examiner
EAST classification/citation/text/name search - history attached	09/25/2018	RC
consulted Ex. Gall class 70		
reviewed art tagged in EAST against new claim 1 and performed some citation searching- history attached	04/09/2019	RC
reviewed all art of record against amended claims and went through e04h15/44,48,50,52 again (all data bases other than FPRS)	09/20/2019	RC

/Robert Canfield/ Primary Examiner, Art Unit 3635	
--	--

<i>Search Notes</i> 	Application/Control No. 15/925,314	Applicant(s)/Patent Under Reexamination Yang et al.
	Examiner ROBERT CANFIELD	Art Unit 3635

Interference Search			
US Class/CPC Symbol	US Subclass/CPC Group	Date	Examiner

/Robert Canfield/ Primary Examiner, Art Unit 3635	
--	--

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	1	("10273710").PN.	USPAT	OR	OFF	2019/09/20 14:14
L23	0	("2003/0183266").URPN.	USPAT	OR	ON	2019/09/20 14:33
L25	1	("8469045").PN.	USPAT	OR	OFF	2019/09/20 14:38
L26	23	("1031868" "1034846" "1045976" "1513655" "4256129" "5329953" "7293573" "7607447").PN. OR ("8469045").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2019/09/20 14:38
L27	12	("2710012" "2948287" "3000386" "3710806" "3888056").PN. OR ("4256129").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2019/09/20 14:39
L28	45	("2530765").URPN.	USPAT	OR	ON	2019/09/20 14:44
L29	50	("0033959" "1743043" "2530765" "2720886" "3563592").PN. OR ("4074682").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2019/09/20 14:44
L30	77	("0039116" "0673568" "0709528" "0840483" "1124420" "1269413" "1414616" "1502898" "1618851" "1695009" "2117947" "2220610" "2483660" "2530765" "2771087" "2804633" "2948287" "2974965" "3105505" "3223098" "3330582" "3454021" "3721462" "3724473" "3929146" "4131381" "4202363" "4277934" "4372703" "4627210" "4637748" "4645372" "4674523" "4906123" "4945936" "5195551" "5230358" "5871026").PN. OR ("6345639").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2019/09/20 14:46
L31	881	135/145,147,159.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2019/09/20 14:50
L32	5264	e04h15/44,48,50,52.cpc.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2019/09/20 14:53
L33	2943	e04h15/44,48,50,52.cpc.	US-PGPUB; USPAT; USOCR;	OR	ON	2019/09/20 14:53

			EPO; JPO; DERWENT; IBM_TDB			
L34	9	("2005/0016573").URPN.	USPAT	OR	ON	2019/09/20 15:08
L35	20	("20050186023" "20060062632" "20080156962" "7293934" "9797157" "20150308147" "20040141803" "20050155637" "6708707" "20130092207" "10273711" "4256129" "20140130837" "9828788" "20030183266" "20180238075" "20140174491" "1666757" "20040084074" "9995057").PN.	US-PGPUB; USPAT	OR	ON	2019/09/20 15:58
L36	18	("20160348392" "9956981" "6336465" "0233255" "20110023924" "20140116488" "20150308147" "6929017" "8469045" "20070012347" "20150247339" "5813425" "7178539" "4627210" "20150376913" "20030183266" "20160002949" "20050097829").PN.	US-PGPUB; USPAT	OR	ON	2019/09/20 16:14
L37	11	(US-20100319743-\$ or US-20050016573-\$ or US-20190234102-\$ or US-20190277053-\$).did. or (US-2530765-\$ or US-6929017-\$ or US-4256129-\$ or US-3929146-\$ or US- 6345639-\$).did. or (CN-107476647-\$ or US-20190234101-\$).did.	US-PGPUB; USPAT; DERWENT	OR	ON	2019/09/20 16:14
L38	10	37 not 36	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2019/09/20 16:15

9/ 20/ 2019 4:17:39 PM
C:\ Users\ rcanfield\ Documents\ EAST\ Workspaces\ 15925314.wsp