

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Northern District of Iowa on the following

☐ Trademarks or ☒ Patents. (☐ the patent action involves 35 U.S.C. § 292.); --

DOCKET NO. 5:19-cv-4005	DATE FILED 1/23/2019	U.S. DISTRICT COURT Northern District of Iowa
PLAINTIFF Unverferth Mfg. Co., Inc.		DEFENDANT Meridian Mfg., Inc.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 8,221,047	7/17/2012	Unverferth
2 8,967,940	3/3/2015	Unverferth
3 9,745,123	8/29/2017	Unverferth
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY ☐ Amendment ☐ Answer ☐ Cross Bill ☐ Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK Robert L. Phelps, Clerk of Court	(BY) DEPUTY CLERK /s/Paul A. Coberly, Deputy Clerk	DATE 1/24/2019
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

AO 120 (Rev. 08/10)

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court _____ for the District of North Dakota _____ on the following

☐ Trademarks or ☒ Patents. (☐ the patent action involves 35 U.S.C. § 292.);

DOCKET NO. 3:18-cv-053	DATE FILED 3/12/2018	U.S. DISTRICT COURT for the District of North Dakota
PLAINTIFF Unverferth Mfg. Co., Inc.		DEFENDANT Norwood Sales Inc.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 8,221,047	7/17/2012	Unverferth Mfg. Co., Inc.
2 8,967,940	3/3/2015	Unverferth Mfg. Co., Inc.
3 9,745,123	8/29/2017	Unverferth Mfg. Co., Inc.
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In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY ☐ Amendment ☐ Answer ☐ Cross Bill ☐ Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK Robert Ansley	(BY) DEPUTY CLERK /s/ Ashley Sanders	DATE 3/12/2018
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

AO 120 (Rev. 08/10)

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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court _____ for the Northern District of Ohio, Western Division _____ on the following

☐ Trademarks or ☒ Patents. (☐ the patent action involves 35 U.S.C. § 292.);

DOCKET NO.	DATE FILED 9/13/2016	U.S. DISTRICT COURT for the Northern District of Ohio, Western Division
PLAINTIFF Unverferth Mfg. Co., Inc.		DEFENDANT J&M Mfg. Co., Inc.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 8,221,047	7/17/2012	Unverferth Mfg. Co., Inc.
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PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
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☐ Trademarks or ☒ Patents. (☐ the patent action involves 35 U.S.C. § 292.);

DOCKET NO.	DATE FILED 9/13/2016	U.S. DISTRICT COURT for the Northern District of Ohio, Western Division
PLAINTIFF Unverferth Mfg. Co., Inc.		DEFENDANT J&M Mfg. Co., Inc.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 8,221,047	7/17/2012	Unverferth Mfg. Co., Inc.
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In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY ☐ Amendment ☐ Answer ☐ Cross Bill ☐ Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
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DECISION/JUDGEMENT

CLERK	(BY) DEPUTY CLERK	DATE
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TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court NORTHERN DISTRICT OF OHIO on the following

☐ Trademarks or ☒ Patents. (☐ the patent action involves 35 U.S.C. § 292.):

DOCKET NO. 3:12-cv-02248	DATE FILED 9/5/2012	U.S. DISTRICT COURT NORTHERN DISTRICT OF OHIO
PLAINTIFF Unverferth Manufacturing Company, Inc.		DEFENDANT Meridian Manufacturing Group, Inc.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 8,221,047	7/17/2012	Brian James Peterson and David Richard Smith
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In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY ☐ Amendment ☐ Answer ☐ Cross Bill ☐ Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT 02/05/2013 Order of Case Dismissal with prejudice. Judge Jeffrey J. Helmick on 2/5/2013.
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CLERK Geri M. Smith	(BY) DEPUTY CLERK s/ Carlene Kinsey	DATE 2/19/2013
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

AO 120 (Rev. 08/10)

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court United States District Court for the Northern District of Indiana on the following

☐ Trademarks or ☒ Patents. (☐ the patent action involves 35 U.S.C. § 292.);

DOCKET NO.	DATE FILED	U.S. DISTRICT COURT United States District Court for the Northern District of Indiana
PLAINTIFF Unverfrth Mfg. Co., Inc. 601 South Broad Street Kalida, Ohio 45853		DEFENDANT Par-Kan Co. 2915 West 900 South Silver Lake, IN 46982
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 8,221,047	7/17/2012	Unverferth Mfg. Co., Inc.
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In the above—entitled case, the following patent(s)/ trademark(s) have been included:

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PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court NORTHERN DISTRICT OF OHIO on the following

☐ Trademarks or ☒ Patents . (☐ the patent action involves 35 U.S.C. § 292.):

DOCKET NO. 3:12-cv-02248	DATE FILED 9/5/2012	U.S. DISTRICT COURT NORTHERN DISTRICT OF OHIO
PLAINTIFF Unverferth Manufacturing Company, Inc.		DEFENDANT Meridian Manufacturing Group, Inc.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 8,221,047	7/17/2012	Brian James Peterson and David Richard Smith
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PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK Geri M. Smith	(BY) DEPUTY CLERK s/ Carlene Kinsey	DATE 9/14/2012
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy



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.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/031,867	07/17/2012	8221047	1994-311	3346

6449 7590 06/27/2012
ROTHWELL, FIGG, ERNST & MANBECK, P.C.
607 14th Street, N.W.
SUITE 800
WASHINGTON, DC 20005

ISSUE NOTIFICATION

The projected patent number and issue date are specified above.

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

The Patent Term Adjustment is 56 day(s). Any patent to issue from the above-identified application will include an indication of the adjustment on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

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 Application Assistance Unit (AAU) of the Office of Data Management (ODM) at (571)-272-4200.

APPLICANT(s) (Please see PAIR WEB site <http://pair.uspto.gov> for additional applicants):

Brian James Petersen, Ottawa, OH;
David Richard SMITH, Fort Jennings, OH;

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)

6449 7590 05/25/2012
ROTHWELL, FIGG, ERNST & MANBECK, P.C.
607 14th Street, N.W.
SUITE 800
WASHINGTON, DC 20005

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.
12/031,867	02/15/2008	Brian James Petersen	1994-311	3346

TITLE OF INVENTION: SEED CARRIER WITH PIVOTING CONVEYOR

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1740	\$300	\$0	\$2040	08/27/2012

EXAMINER	ART UNIT	CLASS-SUBCLASS
RUDAWITZ, JOSHUA I	3652	414-523000

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,
- (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.

1 Rothwell, Figg, Ernst
 2 & Manbeck, P.C.
 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 3.111. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

Unverferth Manufacturing Company, Inc.

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

Kalida, Ohio

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 5

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 credit any overpayment, to Deposit Account Number 02-2135 (enclose an extra copy of this form).

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

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature



Typed or printed name Jason M. Shapiro

Date

5/29/12

Registration No. 35,354

This collection of information 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.

Electronic Patent Application Fee Transmittal				
Application Number:		12031867		
Filing Date:		15-Feb-2008		
Title of Invention:		SEED CARRIER WITH PIVOTING CONVEYOR		
First Named Inventor/Applicant Name:		Brian James Petersen		
Filer:		Jason M. Shapiro/Carole Klavuhn		
Attorney Docket Number:		1994-311		
Filed as Large Entity				
Utility under 35 USC 111(a) Filing Fees				
Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Utility Appl issue fee	1501	1	1740	1740
Publ. Fee- early, voluntary, or normal	1504	1	300	300

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Extension-of-Time:				
Miscellaneous:				
Printed copy of patent - no color	8001	5	3	15
Total in USD (\$)				2055

Electronic Acknowledgement Receipt	
EFS ID:	12884298
Application Number:	12031867
International Application Number:	
Confirmation Number:	3346
Title of Invention:	SEED CARRIER WITH PIVOTING CONVEYOR
First Named Inventor/Applicant Name:	Brian James Petersen
Customer Number:	6449
Filer:	Jason M. Shapiro/Carole Klavuhn
Filer Authorized By:	Jason M. Shapiro
Attorney Docket Number:	1994-311
Receipt Date:	29-MAY-2012
Filing Date:	15-FEB-2008
Time Stamp:	18:04:14
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	\$2055
RAM confirmation Number	6634
Deposit Account	022135
Authorized User	
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows: Charge any Additional Fees required under 37 C.F.R. Section 1.20 (Post Issuance fees) Charge any Additional Fees required under 37 C.F.R. Section 1.21 (Miscellaneous fees and charges)	

File Listing:					
Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Issue Fee Payment (PTO-85B)	1994-311-IssueFee.pdf	103986	no	1
			21d0298cc5f2bed58d3891d1152de286d3369fe02		
Warnings:					
Information:					
2	Fee Worksheet (SB06)	fee-info.pdf	33901	no	2
			137c89ce33c335fd10a4b4290bdfdbaa5fd1abfc		
Warnings:					
Information:					
Total Files Size (in bytes):			137887		
This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503. <u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application. <u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course. <u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.					



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

NOTICE OF ALLOWANCE AND FEE(S) DUE

6449 7590 05/25/2012
ROTHWELL, FIGG, ERNST & MANBECK, P.C.
607 14th Street, N.W.
SUITE 800
WASHINGTON, DC 20005

EXAMINER

RUDAWITZ, JOSHUA I

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 05/25/2012

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/031,867	02/15/2008	Brian James Petersen	1994-311	3346

TITLE OF INVENTION: SEED CARRIER WITH PIVOTING CONVEYOR

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1740	\$300	\$0	\$2040	08/27/2012

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 SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.
- B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

- A. Pay TOTAL FEE(S) DUE shown above, or
- B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

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)

6449 7590 05/25/2012
ROTHWELL, FIGG, ERNST & MANBECK, P.C.
607 14th Street, N.W.
SUITE 800
WASHINGTON, DC 20005

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.
12/031,867	02/15/2008	Brian James Petersen	1994-311	3346

TITLE OF INVENTION: SEED CARRIER WITH PIVOTING CONVEYOR

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1740	\$300	\$0	\$2040	08/27/2012

EXAMINER	ART UNIT	CLASS-SUBCLASS
RUDAWITZ, JOSHUA I	3652	414-523000

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 3.111. 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 credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

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

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____

Date _____

Typed or printed name _____

Registration No. _____

This collection of information 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.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/031,867	02/15/2008	Brian James Petersen	1994-311	3346

6449	7590	05/25/2012
ROTHWELL, FIGG, ERNST & MANBECK, P.C.		
607 14th Street, N.W.		
SUITE 800		
WASHINGTON, DC 20005		

EXAMINER	
RUDAWITZ, JOSHUA I	

ART UNIT	PAPER NUMBER
3652	

DATE MAILED: 05/25/2012

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

The Patent Term Adjustment to date is 44 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 44 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

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.

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.	Applicant(s)	
	12/031,867	PETERSEN ET AL.	
	Examiner	Art Unit	
	JOSHUA RUDAWITZ	3652	

-- 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 04/05/2012.
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 12-15, 18-34 and 36-49.
4. ☐ 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 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. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
 - (b) ☐ 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).**
7. ☐ 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)

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. ☒ Notice of References Cited (PTO-892) 2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date <u>04122012</u> 4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material | <ol style="list-style-type: none"> 5. ☐ Notice of Informal Patent Application 6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date ____. 7. ☒ Examiner's Amendment/Comment 8. ☒ Examiner's Statement of Reasons for Allowance 9. ☐ Other ____. |
|--|---|

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jason Shapiro on May 16th, 2012.

The application has been amended as follows:

2. Claims 16, 17, 35 and 36 have been canceled.
3. The following is an examiner's statement of reasons for allowance: The allowable subject matter can be found in independent claims 12 and 33, as well as the respective dependent claims. Specifically, the examiner agrees with the applicant's arguments filed on April 5, 2012 as the basis for the allowance. .

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 JOSHUA RUDAWITZ whose telephone number is (571)272-7856. The examiner can normally be reached on Monday - Friday, 8:30 A.M. - 5:00 P.M.

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.

/Joshua I Rudawitz/
Primary Examiner, Art Unit 3652

Notice of References Cited	Application/Control No. 12/031,867	Applicant(s)/Patent Under Reexamination PETERSEN ET AL.	
	Examiner JOSHUA RUDAWITZ	Art Unit 3652	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2003/0057055	03-2003	Haukaas et al.	198/313
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	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.



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BIB DATA SHEET

CONFIRMATION NO. 3346

SERIAL NUMBER 12/031,867	FILING or 371(c) DATE 02/15/2008 RULE	CLASS 414	GROUP ART UNIT 3652	ATTORNEY DOCKET NO. 1994-311	
APPLICANTS Brian James Petersen, Ottawa, OH; David Richard SMITH, Fort Jennings, OH; ** CONTINUING DATA ***** This appln claims benefit of 60/901,321 02/15/2007 ** FOREIGN APPLICATIONS ***** ** IF REQUIRED, FOREIGN FILING LICENSE GRANTED ** 02/27/2008					
Foreign Priority claimed ☐ Yes ☒ No 35 USC 119(a-d) conditions met ☐ Yes ☒ No Verified and /JOSHUA I RUDAWITZ/ Acknowledged Examiner's Signature	☐ Met after Allowance Initials	STATE OR COUNTRY OH	SHEETS DRAWINGS 11	TOTAL CLAIMS 10	INDEPENDENT CLAIMS 1
ADDRESS ROTHWELL, FIGG, ERNST & MANBECK, P.C. 607 14th Street, N.W. SUITE 800 WASHINGTON, DC 20005 UNITED STATES					
TITLE SEED CARRIER WITH PIVOTING CONVEYOR					
FILING FEE RECEIVED 2240	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:		☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit		

Receipt date: 04/12/2012

12031867 - GAU: 3652

Doc code: IDS

Doc description: Information Disclosure Statement (IDS) Filed

PTO/SB/08a (01-10)

Approved for use through 07/31/2012. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Not for submission under 37 CFR 1.99)	Application Number		12031867
	Filing Date		2008-02-15
	First Named Inventor	Brian James PETERSEN et al.	
	Art Unit	3652	
	Examiner Name	Joshua I. Rudawitz	
	Attorney Docket Number	1994-311	

U.S.PATENTS						
Examiner Initial*	Cite No	Patent Number	Kind Code ¹	Issue Date	Name of Patentee or Applicant of cited Document	Pages, Columns, Lines where Relevant Passages or Relevant Figures Appear
	1	3090515		1963-05-18	Crowther	
	2	3493136		1970-02-03	Spellman, Jr.	
	3	3498483		1970-03-03	Meharry	
	4	4037745		1977-07-26	Hengen et al.	
	5	4411581		1983-10-25	Niewold	
	6	4742938		1988-05-10	Niewold	
	7	5520495		1996-05-28	Sukup	
	8	5718556		1998-02-17	Forsyth	
If you wish to add additional U.S. Patent citation information please click the Add button.						

Receipt date: 04/12/2012

12031867 - GAU: 3652

INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Not for submission under 37 CFR 1.99)	Application Number		12031867
	Filing Date		2008-02-15
	First Named Inventor	Brian James PETERSEN et al.	
	Art Unit	3652	
	Examiner Name	Joshua I. Rudawitz	
	Attorney Docket Number	1994-311	

U.S.PATENT APPLICATION PUBLICATIONS								
Examiner Initial*	Cite No	Publication Number	Kind Code ¹	Publication Date	Name of Patentee or Applicant of cited Document	Pages, Columns, Lines where Relevant Passages or Relevant Figures Appear		
	1							
If you wish to add additional U.S. Published Application citation information please click the Add button.								
FOREIGN PATENT DOCUMENTS								
Examiner Initial*	Cite No	Foreign Document Number ³	Country Code ²	Kind Code ⁴	Publication Date	Name of Patentee or Applicant of cited Document	Pages, Columns, Lines where Relevant Passages or Relevant Figures Appear	T ⁵
	1							☐
If you wish to add additional Foreign Patent Document citation information please click the Add button								
NON-PATENT LITERATURE DOCUMENTS								
Examiner Initials*	Cite No	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc), date, pages(s), volume-issue number(s), publisher, city and/or country where published.						T ⁵
	1	Model 2300 Air System and the Model 4800 Air Drill, both made and sold by Concord, as illustrated in the Concord brochure, 12 pages						☐
If you wish to add additional non-patent literature document citation information please click the Add button								
EXAMINER SIGNATURE								
Examiner Signature		/Joshua Rudawitz/				Date Considered	05/17/2012	
*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through a citation if not in conformance and not considered. Include copy of this form with next communication to applicant.								
¹ See Kind Codes of USPTO Patent Documents at www.USPTO.GOV or MPEP 901.04. ² Enter office that issued the document, by the two-letter code (WIPO Standard ST.3). ³ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁴ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁵ Applicant is to place a check mark here if English language translation is attached.								

INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Not for submission under 37 CFR 1.99)	Application Number	12031867
	Filing Date	2008-02-15
	First Named Inventor	Brian James PETERSEN et al.
	Art Unit	3652
	Examiner Name	Joshua I. Rudawitz
	Attorney Docket Number	1994-311

CERTIFICATION STATEMENT

Please see 37 CFR 1.97 and 1.98 to make the appropriate selection(s):

☐ That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement. See 37 CFR 1.97(e)(1).

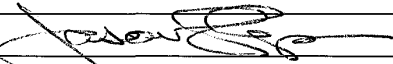
OR

☐ That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of the information disclosure statement. See 37 CFR 1.97(e)(2).

- ☐ See attached certification statement.
- ☐ The fee set forth in 37 CFR 1.17 (p) has been submitted herewith.
- ☒ A certification statement is not submitted herewith.

SIGNATURE

A signature of the applicant or representative is required in accordance with CFR 1.33, 10.18. Please see CFR 1.4(d) for the form of the signature.

Signature		Date (YYYY-MM-DD)	2012-04-12
Name/Print	Jason M. Shapiro	Registration Number	35354

This collection of information is required by 37 CFR 1.97 and 1.98. 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 1 hour 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, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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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.
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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.

EAST Search History**EAST Search History (Interference)**

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	0	(tender and frame and hopper and discharge and base and below and support and arm and coupling and roatable and vertical and axis and horizontal and conveyor and longitudinal and internal and elevator and (center adj2 gravity) and parallel and unloading and loading).clm.	US-PGPUB; USPAT; UPAD	OR	ON	2012/05/17 12:04

5/ 17/ 2012 12:04:33 PM**C:\ Users\ jrudawitz\ Documents\ EAST\ Workspaces\ 12031867.wsp**

<i>Index of Claims</i> 	Application/Control No. 12031867	Applicant(s)/Patent Under Reexamination PETERSEN ET AL.
	Examiner JOSHUA I RUDAWITZ	Art Unit 3652

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

☒ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47									
CLAIM		DATE							
Final	Original	08/24/2009	03/10/2010	08/23/2010	03/23/2011	09/25/2011	05/17/2012		
	1	✓	✓	✓	✓	✓	-		
	2	✓	✓	✓	✓	✓	-		
	3	✓	✓	✓	✓	✓	-		
	4	✓	✓	✓	✓	✓	-		
	5	✓	✓	✓	✓	✓	-		
	6	✓	✓	-	-	-	-		
	7	✓	✓	-	-	-	-		
	8	✓	✓	-	-	-	-		
	9	✓	✓	✓	✓	✓	-		
	10	✓	✓	✓	✓	✓	-		
	11			✓	✓	✓	-		
1	12						=		
2	13						=		
3	14						=		
4	15						=		
	16						-		
	17						-		
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18	31						=		
19	32						=		
20	33						=		
21	34						=		
	35						-		
	36						-		

<i>Index of Claims</i> 	Application/Control No. 12031867	Applicant(s)/Patent Under Reexamination PETERSEN ET AL.
	Examiner JOSHUA I RUDAWITZ	Art Unit 3652

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

☒ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47										
CLAIM		DATE								
Final	Original	08/24/2009	03/10/2010	08/23/2010	03/23/2011	09/25/2011	05/17/2012			
22	37						=			
23	38						=			
24	39						=			
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28	43						=			
29	44						=			
30	45						=			
31	46						=			
32	47						=			
33	48						=			
34	49						=			

Issue Classification 	Application/Control No. 12031867	Applicant(s)/Patent Under Reexamination PETERSEN ET AL.
	Examiner JOSHUA RUDAWITZ	Art Unit 3652

ORIGINAL						INTERNATIONAL CLASSIFICATION												
CLASS		SUBCLASS				CLAIMED					NON-CLAIMED							
414		523				B	6	0	P	1 / 00 (2006.01.01)								
CROSS REFERENCE(S)																		
CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)																	
198	312																	

☒ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47															
Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
	1		17	20	33	34	49								
	2	5	18	21	34										
	3	6	19		35										
	4	7	20		36										
	5	8	21	22	37										
	6	9	22	23	38										
	7	10	23	24	39										
	8	11	24	25	40										
	9	12	25	26	41										
	10	13	26	27	42										
	11	14	27	28	43										
1	12	15	28	29	44										
2	13	16	29	30	45										
3	14	17	30	31	46										
4	15	18	31	32	47										
	16	19	32	33	48										

NONE		Total Claims Allowed:	
		34	
(Assistant Examiner)	(Date)		
/JOSHUA RUDAWITZ/ Primary Examiner.Art Unit 3652	05/17/2012	O.G. Print Claim(s)	O.G. Print Figure
(Primary Examiner)	(Date)	12	1

Search Notes 	Application/Control No. 12031867	Applicant(s)/Patent Under Reexamination PETERSEN ET AL.
	Examiner JOSHUA I RUDAWITZ	Art Unit 3652

SEARCHED			
Class	Subclass	Date	Examiner
414	523	8/24/2009	SA
111	11	5/17/2012	JIR
198	312,315,316.1,317,318	5/17/2012	JIR

SEARCH NOTES		
Search Notes	Date	Examiner
Charles Fox	8/25/09	SA
Reviewed search	3/10/2010	JIR
Reviewed and updated search	8/23/2010	JIR
Reviewed and updates search with search of competitor products	3/23/2011	JIR
Discussed the declaration with TQUAS Melius	3/23/2011	JIR
Reviewed and updated search	9/25/2011	JIR
Discussed the declaration with TQUAS Melius	9/25/2011	JIR
Reviewed and updated search	5/17/2012	JIR

INTERFERENCE SEARCH			
Class	Subclass	Date	Examiner
	Please see attached EAST search	5/17/2012	JIR

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Doc code: IDS

Doc description: Information Disclosure Statement (IDS) Filed

PTO/SB/09a (01-10)

Approved for use through 07/31/2012. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Not for submission under 37 CFR 1.99)	Application Number		12031867
	Filing Date		2008-02-15
	First Named Inventor	Brian James PETERSEN et al.	
	Art Unit	3652	
	Examiner Name	Joshua I. Rudawitz	
	Attorney Docket Number	1994-311	

U.S.PATENTS						
Examiner Initial*	Cite No	Patent Number	Kind Code ¹	Issue Date	Name of Patentee or Applicant of cited Document	Pages, Columns, Lines where Relevant Passages or Relevant Figures Appear
	1	3090515		1963-05-18	Crowther	
	2	3493136		1970-02-03	Spellman, Jr.	
	3	3498483		1970-03-03	Meharry	
	4	4037745		1977-07-26	Hengen et al.	
	5	4411581		1983-10-25	Niewold	
	6	4742938		1988-05-10	Niewold	
	7	5520495		1996-05-28	Sukup	
	8	5718556		1998-02-17	Forsyth	
If you wish to add additional U.S. Patent citation information please click the Add button.						

INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Not for submission under 37 CFR 1.99)	Application Number		12031867
	Filing Date		2008-02-15
	First Named Inventor	Brian James PETERSEN et al.	
	Art Unit	3652	
	Examiner Name	Joshua I. Rudawitz	
	Attorney Docket Number	1994-311	

U.S.PATENT APPLICATION PUBLICATIONS						
Examiner Initial*	Cite No	Publication Number	Kind Code ¹	Publication Date	Name of Patentee or Applicant of cited Document	Pages, Columns, Lines where Relevant Passages or Relevant Figures Appear
	1					

If you wish to add additional U.S. Published Application citation information please click the Add button.

FOREIGN PATENT DOCUMENTS								
Examiner Initial*	Cite No	Foreign Document Number ³	Country Code ²	Kind Code ⁴	Publication Date	Name of Patentee or Applicant of cited Document	Pages, Columns, Lines where Relevant Passages or Relevant Figures Appear	T ⁵
	1							☐

If you wish to add additional Foreign Patent Document citation information please click the Add button

NON-PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc), date, pages(s), volume-issue number(s), publisher, city and/or country where published.	T ⁵
	1	Model 2300 Air System and the Model 4800 Air Drill, both made and sold by Concord, as illustrated in the Concord brochure, 12 pages	☐

If you wish to add additional non-patent literature document citation information please click the Add button

EXAMINER SIGNATURE			
Examiner Signature		Date Considered	

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through a citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ See Kind Codes of USPTO Patent Documents at www.USPTO.GOV or MPEP 901.04. ² Enter office that issued the document, by the two-letter code (WIPO Standard ST.3). ³ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁴ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁵ Applicant is to place a check mark here if English language translation is attached.

INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Not for submission under 37 CFR 1.99)	Application Number		12031867
	Filing Date		2008-02-15
	First Named Inventor	Brian James PETERSEN et al.	
	Art Unit	3652	
	Examiner Name	Joshua I. Rudawitz	
	Attorney Docket Number	1994-311	

CERTIFICATION STATEMENT

Please see 37 CFR 1.97 and 1.98 to make the appropriate selection(s):

☐ That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement. See 37 CFR 1.97(e)(1).

OR

☐ That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of the information disclosure statement. See 37 CFR 1.97(e)(2).

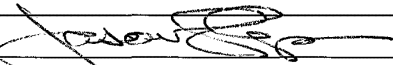
☐ See attached certification statement.

☐ The fee set forth in 37 CFR 1.17 (p) has been submitted herewith.

☒ A certification statement is not submitted herewith.

SIGNATURE

A signature of the applicant or representative is required in accordance with CFR 1.33, 10.18. Please see CFR 1.4(d) for the form of the signature.

Signature		Date (YYYY-MM-DD)	2012-04-12
Name/Print	Jason M. Shapiro	Registration Number	35354

This collection of information is required by 37 CFR 1.97 and 1.98. 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 1 hour 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, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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 the Freedom of Information Act requires disclosure of these records.
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 inspections 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.

Electronic Acknowledgement Receipt	
EFS ID:	12528199
Application Number:	12031867
International Application Number:	
Confirmation Number:	3346
Title of Invention:	SEED CARRIER WITH PIVOTING CONVEYOR
First Named Inventor/Applicant Name:	Brian James Petersen
Customer Number:	6449
Filer:	Jason M. Shapiro/Carole Klavuhn
Filer Authorized By:	Jason M. Shapiro
Attorney Docket Number:	1994-311
Receipt Date:	12-APR-2012
Filing Date:	15-FEB-2008
Time Stamp:	16:06:12
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment		no			
File Listing:					
Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		1994-311-IDS.pdf	249603	yes	5
			f095b3abc1b2f31f38631a8c6193659dd9d90568		

	Multipart Description/PDF files in .zip description								
	Document Description		Start	End					
	Transmittal Letter		1	1					
	Information Disclosure Statement (IDS) Form (SB08)		2	5					
Warnings:									
Information:									
2	Non Patent Literature	1994-311-npl.pdf	4058426	no	12				
			1b84ec0178c669b5bc217e9e9119456e0ffc e219						
Warnings:									
Information:									
Total Files Size (in bytes):			4308029						
This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503. <u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application. <u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course. <u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.									

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 12/031,867
Applicant : Brian James PETERSEN et al.
Filed : February 15, 2008
TC/A.U. : 3652
Examiner : Joshua I. Rudawitz

Docket No. : 1994-311
Customer No. : 06449
Confirmation No. : 3346

INFORMATION DISCLOSURE STATEMENT

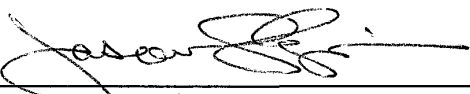
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Under the provisions of 37 C.F.R. §§ 1.56, 1.97 and 1.98, Applicants submit herewith information that the Office may wish to consider in examination of the subject application.

Materials submitted for consideration are listed on the attached form PTO-SB08.

Respectfully submitted,

By 
Jason M. Shapiro
Attorney for Applicants
Registration No. 35,354
ROTHWELL, FIGG, ERNST & MANBECK, p.c.
Suite 800, 607 14th Street, N.W.
Washington, D.C. 20005
Telephone: (202)783-6040



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.
12/031,867	02/15/2008	Brian James Petersen	1994-311	3346
6449 7590 04/06/2012 ROTHWELL, FIGG, ERNST & MANBECK, P.C. 607 14th Street, N.W. SUITE 800 WASHINGTON, DC 20005			EXAMINER RUDAWITZ, JOSHUA I	
			ART UNIT 3652	PAPER NUMBER
			NOTIFICATION DATE 04/06/2012	DELIVERY MODE 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):

PTO-PAT-Email@rfem.com

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Doc code: RCEX

Doc description: Request for Continued Examination (RCE)

PTO/SB/30EFS (01-09)

Approved for use through 02/28/2009. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

REQUEST FOR CONTINUED EXAMINATION(RCE)TRANSMITTAL (Submitted Only via EFS-Web)							
Application Number	12031867	Filing Date	2008-02-15	Docket Number (if applicable)	1994-311	Art Unit	3652
First Named Inventor	Brian James Petersen			Examiner Name	Joshua I. Rudawitz		
This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. The Instruction Sheet for this form is located at WWW.USPTO.GOV							
SUBMISSION REQUIRED UNDER 37 CFR 1.114							
Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).							
☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.							
☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____							
☐ Other _____							
☒ Enclosed							
☒ Amendment/Reply							
☐ Information Disclosure Statement (IDS)							
☐ Affidavit(s)/ Declaration(s)							
☐ Other _____							
MISCELLANEOUS							
☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of months _____. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)							
☐ Other _____							
FEES							
The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.							
☒ The Director is hereby authorized to charge any underpayment of fees, or credit any overpayments, to Deposit Account No <u>022135</u>							
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED							
☒ Patent Practitioner Signature							
☐ Applicant Signature							

Doc code: RCEX

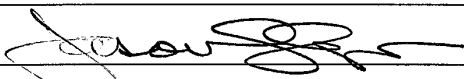
Doc description: Request for Continued Examination (RCE)

PTO/SB/30EFS (01-09)

Approved for use through 02/28/2009. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Signature of Registered U.S. Patent Practitioner			
Signature		Date (YYYY-MM-DD)	2012-04-05
Name	Jason M. Shapiro	Registration Number	35354

This collection of information is required by 37 CFR 1.114. 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 1.11 and 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, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 12/031,867
Applicant : Brian James Petersen et al.
Filed : 02/15/2008
TC/A.U. : 3652
Examiner : Joshua I. Rudawitz

Docket No. : 1994-311
Customer No. : 06449
Confirmation No. : 3346

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

Sir:

AMENDMENT AFTER FINAL

Please amend the above-identified application as follows:

Amendments to the claims begin on page 2 of this paper.

Remarks begin on page 11 of this paper.

Amendments to the claims:

Cancel claims 1-11.

12. (New) A seed or grain tender comprising:

a frame;

a main hopper mounted on said frame and having a main hopper discharge;

a base mounted on said frame below said main hopper discharge;

a support arm having first and second ends;

a first coupling connecting said first end of said support arm with said base, said first coupling being rotatable in relation to said base about a first vertical axis of rotation, and said first end of said support arm being rotatable in relation to said first coupling about a first horizontal axis of rotation;

a conveyor having a longitudinal axis and first and second ends, a conveyor hopper at said first end, a conveyor discharge at said second end, and an internal elevator for moving seed or grain from said conveyor hopper to said conveyor discharge; and

a second coupling connecting said second end of said support arm with said conveyor at an approximate center of gravity of said conveyor, said second coupling defining a second vertical axis of rotation that is not parallel to said conveyor longitudinal axis, and said conveyor being rotatable in relation to said second end of said support arm about said second vertical axis of rotation between an unloading position wherein said conveyor hopper is disposed below said main hopper discharge to

receive agricultural product from said main hopper and a loading position wherein said conveyor discharge is disposed above said main hopper to dispense agricultural product into said main hopper.

13. (New) The seed or grain tender of claim 12, wherein said support arm extends upwardly at an acute angle from said base.

14. (New) The seed or grain tender of claim 13, wherein said conveyor is parallel to said support arm in said unloading position.

15. (New) The seed or grain tender of claim 14, wherein said conveyor is disposed above said support arm in said unloading position.

16. (New) The seed or grain tender of claim 12, wherein said first end of said conveyor is detachably connectable to said first end of said support arm in said unloading position.

17. (New) The seed or grain tender of claim 16, further comprising a latch for detachably connecting said first end of said conveyor to said first end of said support arm in said unloading position.

18. (New) The seed or grain tender of claim 12, wherein said conveyor is rotatable in relation to said second coupling about a second horizontal axis of rotation.

19. (New) The seed or grain tender of claim 18, wherein said second horizontal axis of rotation extends through said second coupling.

20. (New) The seed or grain tender of claim 12, further comprising a stand coupled with said first end of said conveyor and movable between a stowed position allowing said conveyor hopper to be positioned below said main hopper discharge when said conveyor is in said unloading position and an extended position supporting said conveyor hopper above the ground when said conveyor is in said loading position.

21. (New) The seed or grain tender of claim 12, wherein said first vertical axis extends through said first end of said support arm.

22. (New) The seed or grain tender of claim 12, wherein said first vertical axis extends through said base.

23. (New) The seed or grain tender of claim 12, wherein said second end of said support arm terminates at or near said approximate center of gravity of said conveyor.

24. (New) The seed or grain tender of claim 12, wherein said first end of said support arm is fixed at a first height and said second end of said support arm is pivotable between a range of heights.

25. (New) The seed or grain tender of claim 12, further comprising a lift device for adjusting a height of said second end of said support arm.

26. (New) The seed or grain tender of claim 25, wherein said lift device is a pressurized cylinder.

27. (New) The seed or grain tender of claim 25, wherein said lift device is a hydraulic cylinder.

28. (New) The seed or grain tender of claim 12, wherein said first coupling is a U-shaped member with a horizontal base portion and a pair of upright portions, and wherein said first horizontal axis extends through said upright portions of said first coupling.

29. (New) The seed or grain tender of claim 12, further comprising a locking mechanism for locking or unlocking said support arm in relation to said base.

30. (New) The seed or grain tender of claim 29, wherein said locking mechanism includes a pin releasably engageable with one of a plurality of holes formed in said base.
31. (New) The seed or grain tender of claim 30, wherein said pin is spring-biased toward said holes in said base.
32. (New) The seed or grain tender of claim 30, wherein said internal elevator includes a motor-driven belt.
33. (New) A seed or grain tender comprising:
- a frame;
 - a main hopper mounted on said frame and having a main hopper discharge;
 - a base mounted on said frame below said main hopper discharge;
 - a support arm having first and second ends;
 - a first coupling connecting said first end of said support arm with said base, said first coupling being rotatable in relation to said base about a first vertical axis of rotation, and said first end of said support arm being rotatable in relation to said first coupling about a first horizontal axis of rotation;
 - a lift device extending from said base to a portion of said support arm between said first and second ends such that said support arm extends upwardly at an acute angle from said base;

a conveyor having a longitudinal axis and first and second ends, a conveyor hopper at said first end, a conveyor discharge at said second end, and a motor-driven elevator for moving seed or grain from said conveyor hopper to said conveyor discharge; and

a second coupling connecting said second end of said support arm with said conveyor at an approximate center of gravity of said conveyor, said second coupling defining a second vertical axis of rotation that is not parallel to said conveyor longitudinal axis, and said conveyor being rotatable in relation to said second end of said support arm about said second vertical axis of rotation between an unloading position wherein said conveyor hopper is disposed below said main hopper discharge to receive agricultural product from said main hopper and a loading position wherein said conveyor discharge is disposed above said main hopper to dispense agricultural product into said main hopper, wherein said conveyor is disposed parallel to and above said support arm in said unloading position; and

a locking mechanism for locking and unlocking said support arm in relation to said base.

34. (New) The seed or grain tender of claim 33, wherein said conveyor is disposed above said support arm in said unloading position.

35. (New) The seed or grain tender of claim 33, wherein said first end of said conveyor is detachably connectable to said first end of said support arm in said unloading position.
36. (New) The seed or grain tender of claim 35, further comprising a latch for detachably connecting said first end of said conveyor to said first end of said support arm in said unloading position.
37. (New) The seed or grain tender of claim 33, wherein said conveyor is rotatable in relation to said second coupling about a second horizontal axis of rotation.
38. (New) The seed or grain tender of claim 37, wherein said second horizontal axis of rotation extends through said second coupling.
39. (New) The seed or grain tender of claim 33, further comprising a stand coupled with said first end of said conveyor and movable between a stowed position allowing said conveyor hopper to be positioned below said main hopper discharge when said conveyor is in said unloading position and an extended position supporting said conveyor hopper above the ground when said conveyor is in said loading position.

40. (New) The seed or grain tender of claim 33, wherein said first vertical axis extends through said first end of said support arm.
41. (New) The seed or grain tender of claim 33, wherein said first vertical axis extends through said base.
42. (New) The seed or grain tender of claim 33, wherein said second end of said support arm terminates at or near said approximate center of gravity of said conveyor.
43. (New) The seed or grain tender of claim 33, wherein said first end of said support arm is fixed at a first height and said second end of said support arm is pivotable between a range of heights.
44. (New) The seed or grain tender of claim 33, wherein said lift device is a pressurized cylinder.
45. (New) The seed or grain tender of claim 33, wherein said lift device is a hydraulic cylinder.
46. (New) The seed or grain tender of claim 33, wherein said first coupling is a U-shaped member with a horizontal base portion and a pair of upright portions, and

wherein said first horizontal axis extends through said upright portions of said first coupling.

47. (New) The seed or grain tender of claim 33, wherein said locking mechanism includes a pin releasably engageable with one of a plurality of holes formed in said base.

48. (New) The seed or grain tender of claim 47, wherein said pin is spring-biased toward said holes in said base.

49. (New) The seed or grain tender of claim 33, wherein said internal elevator includes a motor-driven belt.

REMARKS

Claims 12-49 are pending in this application. Claims 1-11 have been cancelled, and new claims 12-49 have been added by amendment above. No new matter has been introduced as a result of these amendments. Reconsideration and allowance of the subject application is respectfully requested in view of the foregoing amendments and the following remarks.

Claims 1-5 and 9-11 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 7,500,817 (Furrer et al.) in view of U.S. Patent No. 5,888,044 (Baskerville). These rejections are rendered moot by the cancellation of claims 1-5 and 9-11.

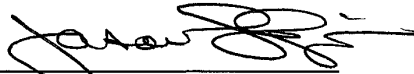
New claims 12-49 are submitted to be patentable over the prior art of record because none of the art, alone or in combination, teaches or suggests a seed or grain tender having, among other things, a first coupling connecting a first end of a support arm with a base below the hopper such that the coupling is rotatable in relation to the base about a first vertical axis of rotation and the support arm is rotatable in relation to the first coupling about a first horizontal axis of rotation, and a second coupling connecting a second end of the support arm with a conveyor at an approximate center of gravity of the conveyor such that the conveyor is rotatable about a second vertical axis of rotation that is not parallel to a longitudinal axis of the conveyor, between an unloading position wherein a hopper at one end of the conveyor is disposed below a main hopper discharge to receive agricultural product

from the main hopper and a loading position wherein a conveyor discharge is disposed above the main hopper to dispense agricultural product into the main hopper.

In view of the above, Applicants submit that this application is now in condition for allowance and request that claims 12-49 be allowed and that this application be passed to issue. However, if any issues remain, the Examiner is invited to contact Applicants' undersigned representative in order to expedite prosecution.

Respectfully submitted,

By:



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Registration No. 35,354
Attorneys for Applicants
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Washington, D.C. 20005
(202) 783-6040 (Telephone)
(202) 783-6031 (Fax)

1985790

Electronic Patent Application Fee Transmittal				
Application Number:		12031867		
Filing Date:		15-Feb-2008		
Title of Invention:		SEED CARRIER WITH PIVOTING CONVEYOR		
First Named Inventor/Applicant Name:		Brian James Petersen		
Filer:		Jason M. Shapiro/Carole Klavuhn		
Attorney Docket Number:		1994-311		
Filed as Large Entity				
Utility under 35 USC 111(a) Filing Fees				
Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
Pages:				
Claims:				
Claims in excess of 20	1202	18	60	1080
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Extension - 2 months with \$0 paid	1252	1	560	560
Miscellaneous:				
Request for continued examination	1801	1	930	930
Total in USD (\$)				2570

Electronic Acknowledgement Receipt	
EFS ID:	12481192
Application Number:	12031867
International Application Number:	
Confirmation Number:	3346
Title of Invention:	SEED CARRIER WITH PIVOTING CONVEYOR
First Named Inventor/Applicant Name:	Brian James Petersen
Customer Number:	6449
Filer:	Jason M. Shapiro/Carole Klavuhn
Filer Authorized By:	Jason M. Shapiro
Attorney Docket Number:	1994-311
Receipt Date:	05-APR-2012
Filing Date:	15-FEB-2008
Time Stamp:	17:11:14
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	\$2570
RAM confirmation Number	4228
Deposit Account	022135
Authorized User	
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows: Charge any Additional Fees required under 37 C.F.R. Section 1.21 (Miscellaneous fees and charges)	

File Listing:					
Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
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This is not a USPTO supplied RCE SB30 form.					
Information:					
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	Multipart Description/PDF files in .zip description				
	Document Description		Start	End	
	Amendment Submitted/Entered with Filing of CPA/RCE		1	1	
	Claims		2	10	
	Applicant Arguments/Remarks Made in an Amendment		11	12	
Warnings:					
Information:					
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Warnings:					
Information:					
Total Files Size (in bytes):			437072		
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PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875					Application or Docket Number 12/031,867		Filing Date 02/15/2008		☐ To be Mailed	
APPLICATION AS FILED – PART I										
(Column 1)			(Column 2)			SMALL ENTITY ☐ OR		OTHER THAN SMALL ENTITY		
FOR	NUMBER FILED	NUMBER EXTRA	RATE (\$)	FEE (\$)	OR	RATE (\$)	FEE (\$)			
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A			N/A				
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A			N/A				
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A			N/A				
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X \$ =		OR	X \$ =				
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X \$ =			X \$ =				
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).									
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))										
* If the difference in column 1 is less than zero, enter "0" in column 2.										
APPLICATION AS AMENDED – PART II										
(Column 1)			(Column 2)			SMALL ENTITY OR		OTHER THAN SMALL ENTITY		
AMENDMENT	04/05/2012	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)	OR	RATE (\$)	ADDITIONAL FEE (\$)	
	Total (37 CFR 1.16(i))	* 38	Minus	** 20	= 18	X \$ =		OR	X \$60=	1080
	Independent (37 CFR 1.16(h))	* 2	Minus	*** 3	= 0	X \$ =		OR	X \$250=	0
	☐ Application Size Fee (37 CFR 1.16(s))							OR		
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
						TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE	1080
AMENDMENT	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)	OR	RATE (\$)	ADDITIONAL FEE (\$)		
	Total (37 CFR 1.16(i))	*	Minus	**	=	X \$ =		OR	X \$ =	
	Independent (37 CFR 1.16(h))	*	Minus	***	=	X \$ =		OR	X \$ =	
	☐ Application Size Fee (37 CFR 1.16(s))							OR		
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
						TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE	
* If the entry in column 1 is less than the entry in column 2, write "0" in column 3. ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20". *** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3". The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.										

Legal Instrument Examiner:
/CAROLYN COFER/

This collection of information is required by 37 CFR 1.16. 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, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Docket No.: 1994-311

NOTICE OF APPEAL FROM THE PRIMARY EXAMINER
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of
PETERSEN et al.
Serial No.: 12/031,867
Filed: February 15, 2008
For: SEED CARRIER WITH PIVOTING CONVEYOR
Group Art Unit: 3652
Examiner: Joshua Rudawitz
Confirmation No.: 3346

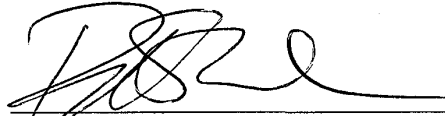
Applicant hereby appeals to the Board of Patent Appeals and Interferences from the decision of the Examiner dated September 30, 2011, rejecting the following claims: 1-5 and 9-11.

The fee for this Notice of Appeal is \$620.00

The Commissioner is authorized to charge the required fees to Deposit Account No. 02-2135.

Respectfully submitted,

By



Patrick T. Skacel
Attorney for Applicants
Registration No. 47,948
ROTHWELL, FIGG, ERNST & MANBECK, p.c.
Suite 800, 1425 K Street, N.W.
Washington, D.C. 20005
Telephone: (202)783-6040

Electronic Patent Application Fee Transmittal				
Application Number:		12031867		
Filing Date:		15-Feb-2008		
Title of Invention:		SEED CARRIER WITH PIVOTING CONVEYOR		
First Named Inventor/Applicant Name:		Brian James Petersen		
Filer:		Patrick Thomas Skacel/Carolyn Harty		
Attorney Docket Number:		1994-311		
Filed as Large Entity				
Utility under 35 USC 111(a) Filing Fees				
Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Notice of appeal	1401	1	620	620
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Miscellaneous:				
Total in USD (\$)				620

Electronic Acknowledgement Receipt	
EFS ID:	11727512
Application Number:	12031867
International Application Number:	
Confirmation Number:	3346
Title of Invention:	SEED CARRIER WITH PIVOTING CONVEYOR
First Named Inventor/Applicant Name:	Brian James Petersen
Customer Number:	6449
Filer:	Patrick Thomas Skacel/Carolyn Harty
Filer Authorized By:	Patrick Thomas Skacel
Attorney Docket Number:	1994-311
Receipt Date:	29-DEC-2011
Filing Date:	15-FEB-2008
Time Stamp:	14:46:57
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	\$ 620
RAM confirmation Number	928
Deposit Account	022135
Authorized User	
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows: Charge any Additional Fees required under 37 C.F.R. Section 1.21 (Miscellaneous fees and charges)	

File Listing:					
Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Notice of Appeal Filed	noa.pdf	78445	no	1
			91073c6d65988324039e8bffc9856ea5ee6d		
Warnings:					
Information:					
2	Fee Worksheet (SB06)	fee-info.pdf	30572	no	2
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Warnings:					
Information:					
Total Files Size (in bytes):			109017		
This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503. <u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application. <u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course. <u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.					



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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/031,867	02/15/2008	Brian James Petersen	1994-311	3346

6449 7590 09/30/2011
ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

EXAMINER

RUDAWITZ, JOSHUA I

ART UNIT	PAPER NUMBER
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3652

NOTIFICATION DATE	DELIVERY MODE
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09/30/2011

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):

PTO-PAT-Email@rfem.com

Office Action Summary	Application No.	Applicant(s)	
	12/031,867	PETERSEN ET AL.	
	Examiner	Art Unit	
	JOSHUA RUDAWITZ	3652	

-- 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 05 July 2011.
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) 1-5 and 9-11 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) 1-5 and 9-11 is/are rejected.
8)☐ Claim(s) ____ is/are objected to.
9)☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

10)☐ The specification is objected to by the Examiner.
11)☒ The drawing(s) filed on 15 February 2008 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).
12)☐ 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

13)☐ 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)	4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) ☐ Notice of Informal Patent Application
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____	6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. 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.

2. Claims 1-5 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furrer et al. (US 7,500,817) in view of Baskerville (US 5,888,044).

Furrer et al. (Furrer) discloses a seed or grain tender including a main hopper 13 coupled with a frame 15 via leg members 42, the main hopper having a discharge 69; a base 28 coupled with the frame, positioned under the main hopper;

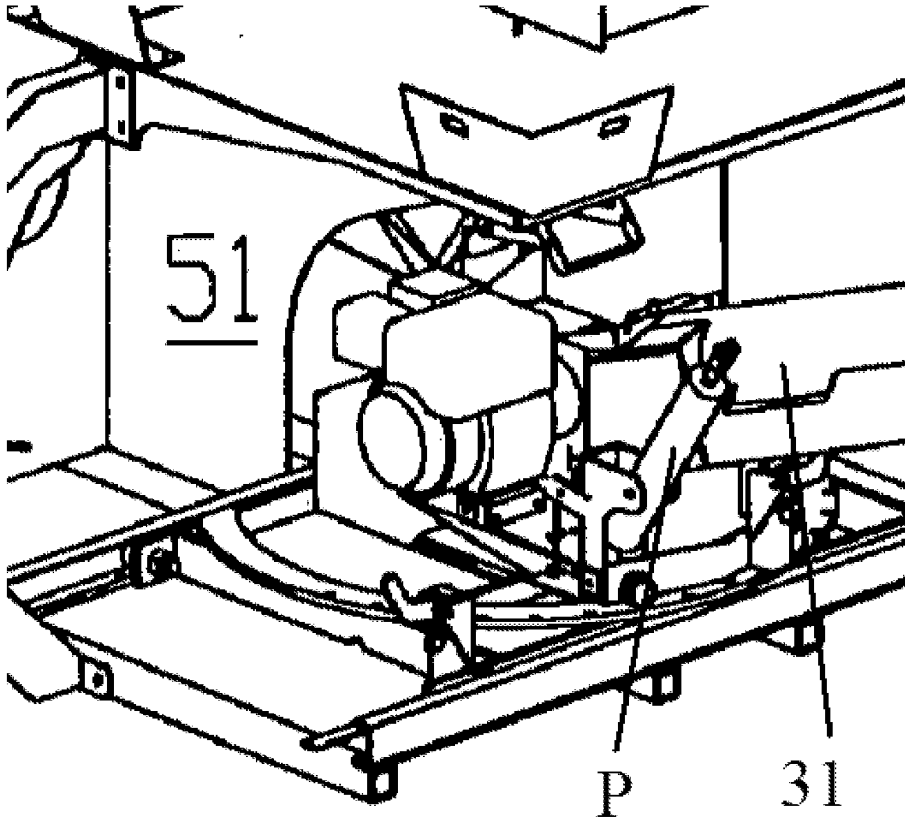


Figure A - Enlarged figure 5 of Furrer (annotated)

a support arm, P figure A above, rotatably coupled with the base at a first end of the support arm at a position at least partially below the discharge of the main hopper; a conveyor having a conveyor tube portion 31, a conveyor hopper 34 coupled to the tube portion at a first end, and a discharge 36 coupled to the tube portion at a second end of the tube portion, wherein the conveyor hopper includes sloped, inwardly facing walls for channeling seed or grain to the conveyor; a conveyor coupling rotatably coupling the conveyor tube portion with

a second end of the support arm such that the conveyor can rotate about at least one axis at the coupling;

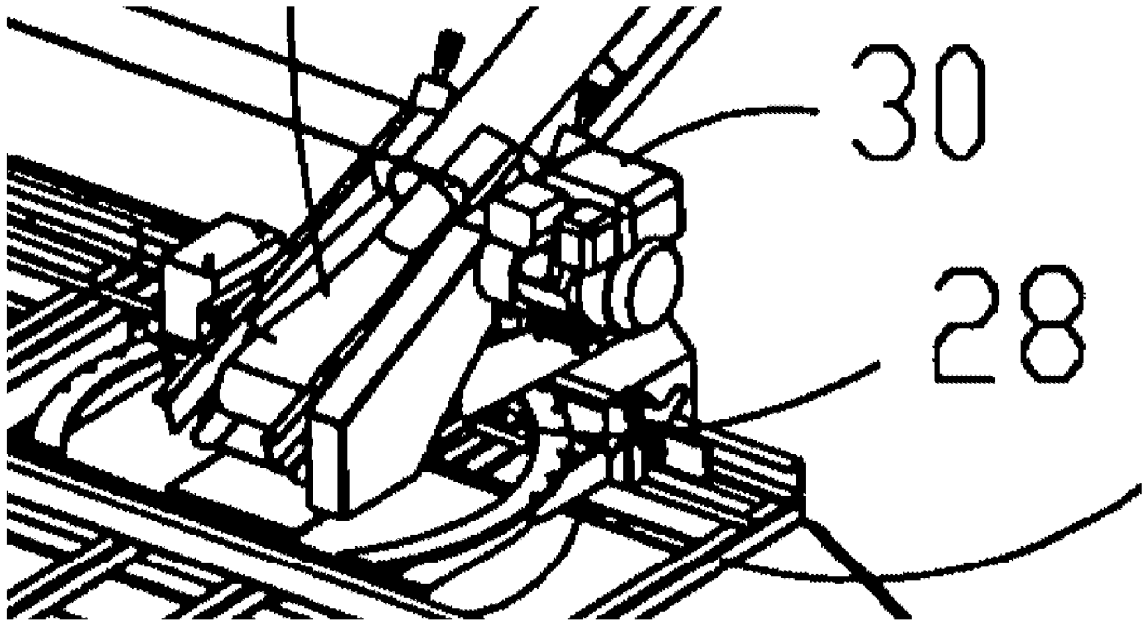


Figure B - Enlarged Figure 3, Furrer (annotated)

and a locking mechanism including retaining members fixed to the base, the examiner notes that the notches shown on turret 28 in figure B above, and engaging means for engaging with the retaining members for locking or unlocking the support arm to the base; the conveyor further includes an elevator for moving seed or grain from the conveyor hopper to the discharge, and a motor 30 positioned in the discharge for driving the elevator; the conveyor is a motor driven belt, tube conveyor, col. 4, ll. 29-31; further comprising a hydraulic piston coupled with the base plate and with the support arm, for raising and lowering the support arm, as seen in figure A above; the conveyor hopper is adjustable in

size; the discharge of the main hopper is a gravity discharge; the main hopper includes side walls inwardly converging to the discharge.

Furrer fails to disclose a mechanism for detachably coupling the first end of the conveyor with the first end of the support arm such that at a position where the conveyor hopper is positioned below the main hopper discharge, and when the conveyor is decoupled from the position, the conveyor can be rotated about the axis of the conveyor coupling to a position where the discharge of the conveyor is positioned over the main hopper; and the conveyor coupling includes a pivotable coupling with a substantially vertical axis.

Furrer does disclose "great flexibility and adaptability in the position of the conveyor. . ." (col. 4, ll. 51-53).

Baskerville discloses a mechanism 36 for detachably coupling the first end of the conveyor with the first end of the support arm such that at a position where the conveyor hopper is positioned below the main hopper discharge, see figure 4, and when the conveyor is decoupled from the position, the conveyor can be rotated about the axis of the conveyor coupling to a position where the discharge of the conveyor is positioned over the main hopper, figure 5; and the conveyor coupling includes a pivotable coupling with a substantially vertical axis in order to enhance the versatility to both load and unload (col. 5, ll. 6-7). Therefore, it would have been obvious to a person having ordinary skill in the art, at the time of invention was made, to include the mechanism of Baskerville in the device of

Furrer because Furrer has contemplated reorienting the conveyor and in order to increase the versatility of the system as well.

Response to Amendment

3. The supplemental declaration filed under 37 CFR 1.132 filed 07/05/2011 is insufficient to overcome the rejection of claim 1-5 and 9-11 based upon a rejection under 35 USC 103 as set forth in the last Office action because: As noted in the previous office action, in order to provide a sufficient showing of secondary considerations based upon commercial success, a nexus is required between the success of the commercial embodiment and the claimed invention. At the outset, the examiner notes that Mr. Fanger expressly indicates that portions of his declaration are based in opinion, not fact, as shown in paragraphs 6, 7, 9 and 10. While the examiner understands that according to Mr. Fanger's declaration specific information may not be available, there are not sufficient *facts* to overcome the obviousness rejection based upon the argument of commercial success. For example, the declaration notes in paragraph 8 that the commercial embodiment of the claimed invention saw sales of 2,396 units a year by 2012; however, this can be due to the lifecycle of the products in the industry and not necessarily due to the features of the claimed invention.

4. With regards to the declaration paragraphs concerning the copying, again Mr. Fanger depends upon his opinion, rather than facts to reach particular conclusions as seen in at least paragraph 11. As noted previously, the mere act of copying is insufficient to overcome an obviousness rejection.

Response to Arguments

5. Applicant's arguments filed 07/05/2011 have been fully considered but they are not persuasive.

6. The examiner notes that aside from arguments pertaining to secondary considerations, no arguments were presented relating to the prior art rejection set forth above and in the previous office action dated 04/04/2011.

7. With regards to applicant's assertion that the examiner failed to give "proper weight" (Applicant's Remarks, Page 4, 07/05/2011) to the Fanger declaration dated 02/28/2011, the examiner respectfully disagrees. The examiner notes that the secondary considerations are not dispositive on obviousness rejections, rather an additional factor to be weighed when making the obviousness determination. In the instant case due to the lack of factual evidence, in contrast to opinion, the two declarations are insufficient to overcome the standing obviousness rejection.

8. With regards to applicant's argument pertaining to the alleged failure to state a negative in the declaration, the examiner respectfully disagrees. The examiner notes that there is no requirement to state that the commercial success was *not* a result of advertising, but rather a showing that the commercial embodiment was commercially successful due to the claimed features. While the 02/28/2011 declaration may have stated that the commercial embodiment includes the claimed features and has been successful due to the "novel and nonobvious configuration of the commercial product" (First Fanger Declaration, paragraph 6), the success must be due to the *claimed* embodiment.

9. With regards to the applicant's argument that the examiner erroneously found the evidence of market share insufficient, the examiner respectfully disagrees. As noted above, Fanger himself was unable to provide evidence of market share and relies upon his opinion of the market share, not any facts. Market share can be helpful in weighing the facts in an obviousness determination because the market that the claimed invention is in can be growing, and as a result the commercial embodiment of the claimed invention can see an increase in sales not due to the claimed features but rather due to the growing market.

10. With regards to the applicant's argument that the examiner has failed to rebut the First Fanger Declaration, the examiner notes that the burden is on the applicant to provide sufficient *facts* of secondary consideration. The examiner has explained why, in view of the entire obviousness determination, the First and Second Fanger declarations have failed to overcome the rejections set forth above.

11. With regards to applicant's question of "why was Unverferth's product so successful and so imitated?" (Applicant's Remarks, page 10) the examiner directs the applicant to MPEP 716.06 which states, among other things that: "However, more than the mere fact of copying is necessary to make that action significant because copying may be attributable to other factors such as a lack of concern for patent property or contempt for the patentees ability to enforce the patent."

Conclusion

12. **THIS ACTION IS MADE FINAL.** 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 mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA RUDAWITZ whose telephone number is (571)272-7856. The examiner can normally be reached on Monday - Friday, 8:30 A.M. - 5:00 P.M.

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.

/Joshua I Rudawitz/
Primary Examiner, Art Unit 3652

<i>Search Notes</i> 	Application/Control No. 12031867	Applicant(s)/Patent Under Reexamination PETERSEN ET AL.
	Examiner JOSHUA I RUDAWITZ	Art Unit 3652

SEARCHED			
Class	Subclass	Date	Examiner
414	523	8/24/2009	SA

SEARCH NOTES		
Search Notes	Date	Examiner
Charles Fox	8/25/09	SA
Reviewed search	3/10/2010	JIR
Reviewed and updated search	8/23/2010	JIR
Reviewed and updates search with search of competitor products	3/23/2011	JIR
Discussed the declaration with TQUAS Melius	3/23/2011	JIR
Reviewed and updated search	9/25/2011	JIR
Discussed the declaration with TQUAS Melius	9/25/2011	JIR

INTERFERENCE SEARCH			
Class	Subclass	Date	Examiner

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<i>Index of Claims</i> 	Application/Control No. 12031867	Applicant(s)/Patent Under Reexamination PETERSEN ET AL.
	Examiner JOSHUA I RUDAWITZ	Art Unit 3652

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

☐ Claims renumbered in the same order as presented by applicant										☐ CPA										☐ T.D.										☐ R.1.47									
CLAIM		DATE																																					
Final	Original	08/24/2009	03/10/2010	08/23/2010	03/23/2011	09/25/2011																																	
	1	✓	✓	✓	✓	✓																																	
	2	✓	✓	✓	✓	✓																																	
	3	✓	✓	✓	✓	✓																																	
	4	✓	✓	✓	✓	✓																																	
	5	✓	✓	✓	✓	✓																																	
	6	✓	✓	-	-	-																																	
	7	✓	✓	-	-	-																																	
	8	✓	✓	-	-	-																																	
	9	✓	✓	✓	✓	✓																																	
	10	✓	✓	✓	✓	✓																																	
	11			✓	✓	✓																																	

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 12/031,867
Applicant : Brian James Petersen, et al.
Filed : 02/15/2008
TC/A.U. : 3652
Examiner : Joshua I. Rudawitz

Docket No. : 1994-311
Customer No. : 06449
Confirmation No. : 3346

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

Sir:

RESPONSE

In response to the Office Action mailed April 4, 2011, please reconsider the above-identified application in accordance with the evidence submitted herewith and the remarks that follow.

Remarks begin on **page 2** of this paper.

REMARKS

The Office Action dated April 4, 2011, has been received and carefully reviewed. The preceding amendments and the following remarks form a full and complete response thereto. Accordingly, claims 1-5 and 9-11 are pending and are submitted for reconsideration.

Claims 1-5 and 9-11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Furrer et al. (U.S. Patent No. 7,500,817) ("Furrer") in view of Baskerville (U.S. Patent No. 5,888,044). Applicants respectfully traverse the rejection and submit that the subject matter of claims 1-5 and 9-11 would not have been obvious in view of the cited prior art.

Claim 1, upon which claims 2-5 and 9-10 depend, recites a seed or grain tender. The seed or grain tender includes a main hopper coupled with a frame via leg members. The main hopper includes a discharge. The seed or grain tender further includes a base coupled with said frame and positioned under said discharge of said main hopper, and a support arm rotatably coupled with the base at a first end of the support arm at a position at least partially below said discharge of said main hopper. The seed or grain tender also includes a conveyor having a conveyor tube portion, a conveyor hopper coupled to the tube portion at a first end, and a discharge coupled to the tube portion at a second end of the tube portion. The conveyor hopper includes sloped, inwardly facing walls for channeling seed or grain to said conveyor. The seed or grain tender further includes a conveyor coupling rotatably coupling said conveyor tube portion with a

second end of said support arm such that said conveyor can rotate about a substantially vertical axis at said coupling. The seed or grain tender also includes a mechanism for detachably coupling the conveyor at a position where said conveyor hopper is positioned below said main hopper discharge. When the conveyor is decoupled from the position under the main hopper discharge, the conveyor can be rotated about the axis of the conveyor coupling to a position where the discharge of the conveyor is positioned over the main hopper. The seed or grain tender further includes a locking mechanism including retaining members fixed to the base and engaging means for engaging with the retaining members for locking or unlocking the support arm to the base.

The combination of Furrer and Baskerville fails to disclose or suggest each and every element of claim 1, upon which claims 2-5 and 9-11 depend, for reasons already discussed in previous responses, which are incorporated herein. Accordingly, Applicants submit that the rejection is improper for this reason alone and request the rejection of claims 1-5 and 9-10 be withdrawn.

Further, to highlight the impropriety of the rejection and to further support the Applicants' position that the claimed subject matter would not have been obvious, Applicants submitted fact evidence in the form of the Declaration of Daniel Fanger ("First Fanger Declaration") that, when given proper weight, overwhelmingly supports patentability. The Fanger Declaration is proof of secondary indicia of nonobviousness, and explains two separate secondary indicia that each support nonobviousness:

commercial success and copying. The evidence of secondary indicia is unrebutted, overwhelming and highlights weakness of the rejection.

The First Fanger Declaration has not been given proper weight. Instead, the Office Action asserted, without support, that the First Fanger Declaration is insufficient to overcome the rejections because the Applicants allegedly failed to provide evidence or statements which show that the success was a result of the claimed invention. Office Action, p. 6. Specifically, the Examiner states that declaration failed to show that the commercial success was not a result of an increase in advertising before or after the launch of the claimed product, or that the advertising was decreased and the product still sold. Id.

The Examiner erroneously asserts that the fact evidence submitted by Applicants is deficient because Applicants failed to state a negative with respect to advertising or customer loyalty. The MPEP states that care should be taken “to determine that the commercial success alleged is directly derived from the invention claimed... and that such success is not the result of heavy promotion or advertising, shift in advertising, consumption by purchasers normally tied to the applicant or assignee, or other business events extraneous to the merits of the claimed invention.” MPEP § 716.03(b)(I). The MPEP merely states that care should be taken, and does not require the Applicant to state a negative. The First Fanger Declaration unambiguously states that the Seed Runner includes the claimed features and “has been enormously successful and that the success of the product is due to the novel and nonobvious configuration of the

commercial product.” First Fanger Declaration, ¶ 6. Further, the Examiner states that the declaration failed to provide evidence, or statements, which show the claimed invention resulted in an increase in market share. Office Action, page 6. Evidence of precise market share is not required. See MPEP § 716.03(b)(IV). The MPEP states that “[g]ross sales figures do not show commercial success absent evidence of market share, or as to the time period during which the product was sold, or as to what sales would normally be expected in the market.” MPEP § 716.03(b)(IV). The First Fanger Declaration states:

Unverferth has sold approximately 3700 units in the last approximately 4 years, which is more than any other seed or grain cart Unverferth sells or has sold during that period of time. The original projection for annual number of units sold of the Seed Runner was 400 units per year. The annual number of units sold of the Seed Runner has at least tripled the original projection, and at least 1300 units of the Seed Runner are now sold per year.

First Fanger Declaration, ¶ 5. The evidence set forth clearly states the time period during which the product was sold and what sales would normally be expected in the market, yet the Examiner erroneously found the evidence deficient because it failed to set forth evidence of market share. Also, the Examiner states that “more than the mere fact of copying is needed to make that significant.” Office Action, page 7. The First Fanger Declaration states much more than the mere fact of copying, the First Fanger Declaration states that “during the time the Seed Runner has been on the market, the number of units of non-infringing products has declined, while at the same time, competitors have copied the commercial embodiment of the claimed invention.” First

Fanger Declaration, ¶ 5. Thus, in addition to the evidence presented regarding Unverferth's competitors copying the claimed invention, Applicants have submitted evidence that competitors have developed seed or grain tender products different than the claimed invention that have failed, and the competitors then copied the claimed invention instead.

The evidence provided in the First Fanger Declaration is strong fact evidence showing commercial success and copying. The Examiner has failed to rebut this evidence, and, instead, has erroneously criticized the evidence for failing to state negatives. Nonetheless, in the interest of expediting prosecution, Applicants submit the Supplemental Declaration of Daniel Fanger ("Second Fanger Declaration") to address the issues raised by the Examiner. The Examiner's criticisms, while legally incorrect, are squarely addressed by the Second Fanger Declaration.

Mr. Fanger reviewed the Response to Arguments section of the Office Action dated April 4, 2011. Second Fanger Declaration, ¶ 5. Mr. Fanger is deeply knowledgeable with Unverferth's advertising activity. Second Fanger Declaration, ¶ 6. Unverferth did not increase its advertising before or after the launch of the Seed Runner, the commercial embodiment of the claimed invention. Id. Unverferth customarily allocates two percent of each product's sales towards a budget for product advertising and promotion. Id. The Seed Runner is so popular that Unverferth actually curtailed promotional efforts. Id. Unverferth only spent 50% of the promotional budget in 2009, 40% of the budget in 2010, and 30% of the budget in 2011. Id. Thus, the

success of the Seed Runner is not related to advertising, and is instead directly tied to the combination of features that form the claimed invention, as explained further in the First Fanger Declaration. Id.

The principal reason for the success of the Seed Runner is the inclusion of the claimed features in the product. Second Fanger Declaration, ¶ 7. Mr. Fanger is unaware of any other factors contributing to the success of the product. Id. There was no heavy promotion or advertising in support of the Seed Runner. Id. Unverferth did not shift advertising to the Seed Runner. Id. Mr. Fanger does not believe the success of the Seed Runner is due to the consumption by purchasers normally tied to Unverferth. Id.

Bulk seed tenders have been available for over 20 years. Second Fanger Declaration, ¶ 8. The agricultural sales market is cyclical, and the bulk seed tender market is mature. Id. Unverferth has increased its annual sales numbers six fold in this mature bulk seed tender marketplace from the year the Seed Runner was introduced. Id. The First Fanger Declaration set forth sales figures which demonstrate an incredible increase in market share. First Fanger Declaration, ¶ 5; Second Fanger Declaration, ¶ 8. The Second Fanger Declaration includes a true and correct graphical representation of Unverferth Seed Tender sales that shows an incredible six fold increase in annual sales from the first year the Seed Runner was available. Second Fanger Declaration, ¶ 8. Farmers that were in the market for a bulk seed tender had already felt out the market and decided if a bulk seed tender was the right tool for their operation. Id. The

one way that a new competitor could enter this market and gain market share in this already established area would be to introduce a new bulk seed tender that would revolutionize the way their operation was run. Id. The Unverferth Seed Runner seed tender was introduced in 2007 and the array of revolutionary (claim) features enabled it to enter into the market and rapidly gain market share. Id. The graph provided in ¶ 8 of the Second Fanger Declaration shows that Unverferth has steadily gained market share every year since the Seed Runner's introduction in 2007. Id. With sales being 0 in 2006 and growing to a staggering 2,396 in 2012, Unverferth has shown how introducing a product in an established market is possible if the product contains features that will best the competition. Id. The market for bulk seed tenders has been firmly established for 20 years and Unverferth was able to take some of that market share by introducing a bulk seed tender that furnished features that revolutionized the industry. Id.

It is difficult to determine market share in the farming industry, and Mr. Fanger does not know the actual market share of Unverferth's Seed Tender. Second Fanger Declaration, ¶ 9. However, according to the sales figures, Mr. Fanger believes that Unverferth has at least doubled its market share. Id. The success of the Seed Tender is due to the inclusion of the claimed features and is not due an increase in market size. Id.

The commercial success of the Seed Runner is because of its unique configuration, that is, the inclusion of the claimed features. Second Fanger Declaration,

¶ 10. There is a direct connection between the commercial success of the Seed Runner and the claimed features. Id.

The products lacking the claimed features became less popular after the commercial embodiment of the present invention was released, and, in Mr. Fanger's opinion, Unverferth's competitors copied Unverferth's Seed Runner configuration in order to take advantage of the success of the claimed invention. Second Fanger Declaration, ¶ 11. Mr. Fanger is unaware of any other reason why Unverferth's competitors copied the Seed Runner product. Id. Mr. Fanger is unaware of any companies that have a lack of concern for the patent property or contempt for Unverferth's ability to obtain and enforce the patent. Id.

Further, in the time since Mr. Fanger prepared and signed the First Fanger Declaration, another one of Unverferth's competitors has copied Unverferth's claimed design. Second Fanger Declaration, ¶ 12. Meridian has introduced the 375 Seed Express, copying the commercial embodiment of the claimed invention. Id. Meridian's 375 Seed Express clearly includes the combination of claimed features included in Unverferth's commercial embodiment, such as the support arm rotatably coupled with the base at a first end of the support arm at a position at least partially below the discharge of the main hopper and the ability to detachably couple the conveyor from an unloading position where the conveyor hopper is positioned below the main hopper discharge and, when the conveyor is decoupled from the position under the main hopper, it can be rotated about into a loading position. Id. The copying of the claimed

invention by Meridian and the other competitors discussed in the First Fanger declaration was not for any reason other than the novel and nonobvious combination of claim features provided in Unverferth's product. Second Fanger Declaration, ¶ 13.

Thus, the Second Fanger Declaration remedies any alleged deficiencies of the First Fanger Declaration. The evidence provided is overwhelmingly strong and proves that the invention would not have been obvious. Indeed, if it had been, why was Unverferth's product so successful and so imitated? Since the commercial success of Unverferth's product is directly related to the inclusion of the features of the present claims, Applicants submit that the secondary indicia proves the nonobviousness of the present invention. The weight of this evidence cannot be ignored and it must be considered. Transocean Offshores Deepwater Drilling, Inc. v. Maersk Contractors USA, Inc., 617 F.3d 1296 (Fed. Cir. 2010). The Examiner offers no rebuttal evidence, just improper hindsight analysis, which cannot be given any weight. Thus, the weight of the evidence by far favors patentability. Accordingly, Applicants submit that the rejection is improper and request the rejection of claims 1-5 and 9-10 be withdrawn.

In view of the above, all objections and rejections have been sufficiently addressed. Applicants submit that the application is now in condition for allowance and request that claims 1-5 and 9-11 be allowed and this application passed to issue.

In view of the foregoing, it is submitted that the present application is now in condition for allowance. Reconsideration and allowance of the pending claims are requested.

In the event that this paper is not timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account No. 02-2135.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the Applicants' undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

Respectfully submitted,

By: /Brian A. Tollefson/
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Electronic Acknowledgement Receipt	
EFS ID:	10449035
Application Number:	12031867
International Application Number:	
Confirmation Number:	3346
Title of Invention:	SEED CARRIER WITH PIVOTING CONVEYOR
First Named Inventor/Applicant Name:	Brian James Petersen
Customer Number:	06449
Filer:	Brian A. Tollefson/Carolyn Harty
Filer Authorized By:	Brian A. Tollefson
Attorney Docket Number:	1994-311
Receipt Date:	05-JUL-2011
Filing Date:	15-FEB-2008
Time Stamp:	15:00:06
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment		no			
File Listing:					
Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Rule 130, 131 or 132 Affidavits	132decl.pdf	2283381	no	9
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Warnings:					
Information:					

2		Response.pdf	90499	yes	11
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Multipart Description/PDF files in .zip description					
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	Amendment/Req. Reconsideration-After Non-Final Reject	1	1		
	Applicant Arguments/Remarks Made in an Amendment	2	11		
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Information:					
Total Files Size (in bytes):			2373880		
This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503. <u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application. <u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course. <u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.					

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 12/031,867
Applicant : Brian James Petersen, et al.
Filed : 02/15/2008
TC/A.U. : 3652
Examiner : Joshua I. Rudawitz

Docket No. : 1994-311
Customer No. : 06449
Confirmation No. : 3346

SUPPLEMENTAL DECLARATION PURSUANT TO 37 C.F.R. § 1.132

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

Sir:

I, Daniel Fanger, declare as follows:

1. I am currently employed as the Vice President of Sales and Marketing of Unverferth Manufacturing Company, Inc. ("Unverferth"), the assignee of the above-referenced U.S. patent application.

2. I am familiar with the subject matter of the above-referenced patent application, including the currently pending claims. I am also familiar with the Office Action mailed April 4, 2011, for this application, and with U.S. Patent No. 5,888,044 to Baskerville (also assigned to Unverferth) cited as prior art therein.

3. I have worked in the farming industry for 45 years. My current responsibilities are to manage and direct all sales and marketing activities of Unverferth and its products. In the course of my work in the farming industry, I have developed substantial expertise and knowledge of the farm implement industry, especially products and sales of seed tenders or grain carts having conveyors that are the subject of the present application.

4. I have previously prepared and signed a declaration ("First Fanger Declaration") dated February 1, 2011, which I understand was submitted to the United States Patent and Trademark Office on February 28, 2011.

5. I reviewed the Response to the Arguments section of the Office Action dated April 4, 2011, and I would like to address the Examiner's points.

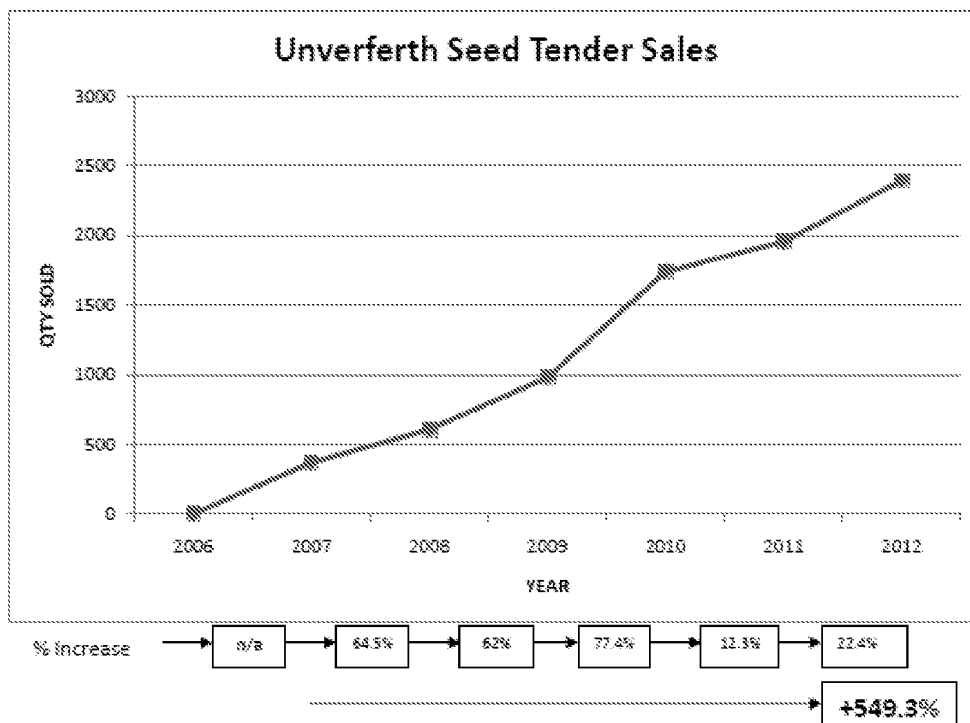
Commercial Success

6. First, the Examiner states that I have not made any showing that Unverferth did not make any increase in advertising before or after the launch of the Seed Runner, the commercial embodiment of the claimed invention. I am deeply knowledgeable with Unverferth's advertising activity. Unverferth customarily allocates two percent of each product's sales towards a budget for product advertising and promotion. The Seed Runner is so popular that Unverferth has actually curtailed promotional efforts. Unverferth only used 50% of the Seed Runner's promotional budget used in 2009, 40% of the budget in 2010, and 30% of the budget in 2011. Unverferth did not increase its advertising before or after the launch of the Seed Runner. In fact, as explained in my previous declaration, in my opinion the success of the Seed Runner is in no way related to advertising, and is instead directly tied to the combination of features that form the claimed invention.

7. In my opinion, the principle reason for the success of the Seed Runner is the inclusion of the claimed features in the product. I am unaware of any other factors contributing to the success of the product. There was no heavy promotion or advertising in support of the Seed Runner. Unverferth did not shift advertising to the Seed Runner. I do not believe that the success of the Seed Runner is due to the consumption by purchasers normally tied to Unverferth. I am unaware of any other business events extraneous to the merits of the claimed invention that contributed to the commercial success of the Seed Runner.

8. The Examiner criticized my declaration for failing to include evidence or statements that the claimed invention resulted in an increase in market share. See Office Action, p. 6. I disagree. In my declaration dated February 1, 2011, I specifically

set forth sales figures which demonstrate an incredible increase in market share. Seed tenders have been available for over 20 years. The agricultural machine sales market is cyclical, and the bulk seed market is mature. Unverferth has increased its annual sales numbers six-fold in this mature marketplace from the first year the Seed Runner was available, as shown in the true and correct graphical representation of annual Seed Runner sales in the following Chart.



→ The percent increase is showing the percent increase in sales quantity from the previous year. In 2006 there were 0 sales so the percent increase from 2006 to 2007 is not available.

The bulk seed tender market was established over 20 years ago and the market for bulk seed tenders has had time to develop. The market has established itself over this period of time and has matured with farmers across the country. Farmers that were in the market for a bulk seed tender had already felt out the market and decided if a bulk seed tender was the right tool for their operation. The one way that a new competitor could

enter this market and gain market share in this already established area would be to introduce a new bulk seed tender that would revolutionize the way their operation was run. The Unverferth Seed Runner seed tender was introduced in 2007 and the array of revolutionary features enabled it to enter into the market and rapidly gain market share. In the graph shown above, you can see how Unverferth has steadily gained market share every year since the Seed Runner's introduction in 2007. With sales being 0 in 2006 and growing to a staggering 2,396 in 2012, Unverferth has shown how introducing a product in an established market is possible if the product contains features that will best the competition. The market for bulk seed tenders has been firmly established for 20 years and Unverferth was able to take some of that market share by introducing a bulk seed tender that furnished features that revolutionized the industry.

9. In my first declaration, I omitted the specific percentage of increase in market share. That is because in this industry it is difficult to determine market share, and I do not know Unverferth's actual market share. However, according to the figures, it is my opinion that Unverferth has at least doubled its market share. In my opinion, Unverferth's increased sales are not due to an increase in the market size. The success of the Seed Runner is due to the inclusion of the claimed features.

10. The Examiner stated that we need to show that the success was a result of the claimed invention, i.e., a connection between the claimed invention and the commercial success must be shown. See Office Action, p. 6. As stated in my previous declaration, it is my opinion that the principle reason for the success of the Seed Runner is its unique configuration, that is, its inclusion of the claimed features. In my opinion, there is a direct connection between commercial success and the claimed features. It is my understanding that this connection establishes the nexus between the claimed invention and the commercial success. See First Fanger Declaration, ¶¶ 5 and 6.

Copying

11. In the Office Action, the Examiner notes that "more than the mere fact of copying is needed to make that significant." The Examiner overlooks that I offered more than the mere fact of copying in my declaration dated February 1, 2011. I explained

that products that did not include the claimed features were becoming less popular, and, therefore, in my opinion, the competitors copied Unverferth's Seed Runner configuration in order to take advantage of the success of the claimed invention. I am unaware of any other reason why Unverferth's competitors have copied its Seed Runner product. I have no knowledge that any of these companies have a lack of concern for the patent property or contempt for the Unverferth's ability to obtain and enforce the patent.

12. In the time since I prepared and signed the First Fanger Declaration, another direct competitor has copied Unverferth's claimed design. Meridian Manufacturing Group ("Meridian") has introduced a product it calls the 375 Seed Express, which appears to be a direct copy of Unverferth's commercial embodiment of the claimed invention. See Exhibit 1 to my declaration. Meridian's 375 Seed Express clearly includes the combination of claimed features included in Unverferth's commercial embodiment, such as the support arm rotatably coupled with the base at a first end of the support arm at a position at least partially below the discharge of the main hopper and the ability to detachably couple the conveyor from an unloading position where the conveyor hopper is positioned below the main hopper discharge and, when the conveyor is decoupled from the position under the main hopper, it can be rotated about into a loading position.

13. I do not believe the copying of Unverferth's claimed invention by Meridian, or any of the competitors discussed in the First Fanger Declaration, was for any reason other than the desirability of the novel and nonobvious combination of claim features included in Unverferth's product.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.


Daniel Fanger

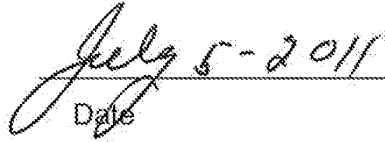

Date

EXHIBIT 1





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.

PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875					Application or Docket Number 12/031,867		Filing Date 02/15/2008		☐ To be Mailed	
APPLICATION AS FILED – PART I										
(Column 1)			(Column 2)			SMALL ENTITY ☐ OR		OTHER THAN SMALL ENTITY		
FOR	NUMBER FILED	NUMBER EXTRA	RATE (\$)	FEE (\$)	OR	RATE (\$)	FEE (\$)			
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A			N/A				
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A			N/A				
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A			N/A				
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X \$ =			X \$ =				
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X \$ =			X \$ =				
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).									
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))										
* If the difference in column 1 is less than zero, enter "0" in column 2.										
APPLICATION AS AMENDED – PART II										
(Column 1)			(Column 2)			SMALL ENTITY OR		OTHER THAN SMALL ENTITY		
AMENDMENT	02/28/2011	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)	OR	RATE (\$)	ADDITIONAL FEE (\$)	
	Total (37 CFR 1.16(i))	* 8	Minus	** 20	= 0	X \$ =		OR	X \$52=	0
	Independent (37 CFR 1.16(h))	* 1	Minus	*** 3	= 0	X \$ =		OR	X \$220=	0
☐ Application Size Fee (37 CFR 1.16(s))										
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))										
					TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE	0	
(Column 1)			(Column 2)			SMALL ENTITY OR		OTHER THAN SMALL ENTITY		
AMENDMENT	07/05/2011	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)	OR	RATE (\$)	ADDITIONAL FEE (\$)	
	Total (37 CFR 1.16(i))	* 11	Minus	** 20	= 0	X \$ =		OR	X \$52 =	0
	Independent (37 CFR 1.16(h))	* 3	Minus	*** 3	= 0	X \$ =		OR	X \$220 =	0
☐ Application Size Fee (37 CFR 1.16(s))										
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))										
					TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE	0	
* If the entry in column 1 is less than the entry in column 2, write "0" in column 3. ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20". *** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3". The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.										

Legal Instrument Examiner:
/GLENN BURNS JR/

This collection of information is required by 37 CFR 1.16. 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, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/031,867	02/15/2008	Brian James Petersen	1994-311	3346

6449	7590	04/04/2011
ROTHWELL, FIGG, ERNST & MANBECK, P.C.		
1425 K STREET, N.W.		
SUITE 800		
WASHINGTON, DC 20005		

EXAMINER	
RUDAWITZ, JOSHUA I	

ART UNIT	PAPER NUMBER
3652	

NOTIFICATION DATE	DELIVERY MODE
04/04/2011	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):

PTO-PAT-Email@rfem.com

Office Action Summary	Application No.		Applicant(s)	
	12/031,867		PETERSEN ET AL.	
	Examiner		Art Unit	
	JOSHUA I. RUDAWITZ		3652	

-- 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 28 February 2011.

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) 1-5 and 9-11 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-5 and 9-11 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 15 February 2008 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) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____. 5) ☐ Notice of Informal Patent Application 6) ☐ Other: _____.
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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. 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 02/28/2011 has been entered.

Claim Rejections - 35 USC § 103

1. 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.

2. Claims 1-5 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furrer et al. (US 7,500,817) in view of Baskerville (US 5,888,044).

Furrer et al. (Furrer) discloses a seed or grain tender including a main hopper 13 coupled with a frame 15 via leg members 42, the main hopper having a discharge 69; a base 28 coupled with the frame, positioned under the main hopper;

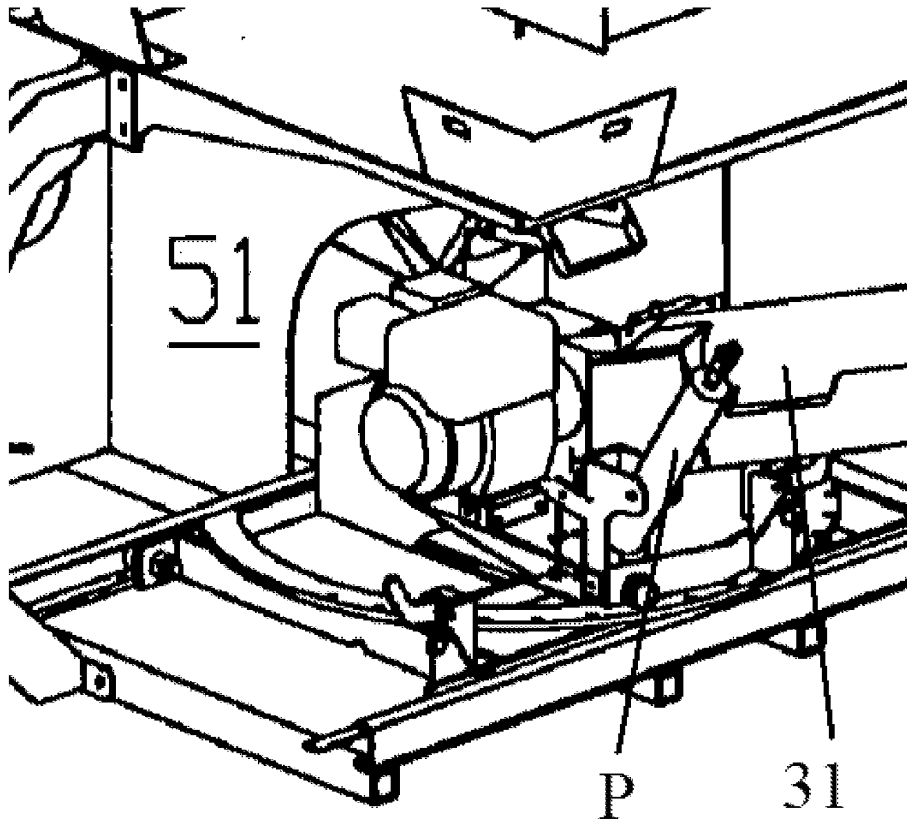


Figure A - Enlarged figure 5 of Furrer (annotated)

a support arm, P figure A above, rotatably coupled with the base at a first end of the support arm at a position at least partially below the discharge of the main hopper; a conveyor having a conveyor tube portion 31, a conveyor hopper 34 coupled to the tube portion at a first end, and a discharge 36 coupled to the tube portion at a second end of the tube portion, wherein the conveyor hopper includes sloped, inwardly facing walls for channeling seed or grain to the conveyor; a conveyor coupling rotatably coupling the conveyor tube portion with

a second end of the support arm such that the conveyor can rotate about at least one axis at the coupling;

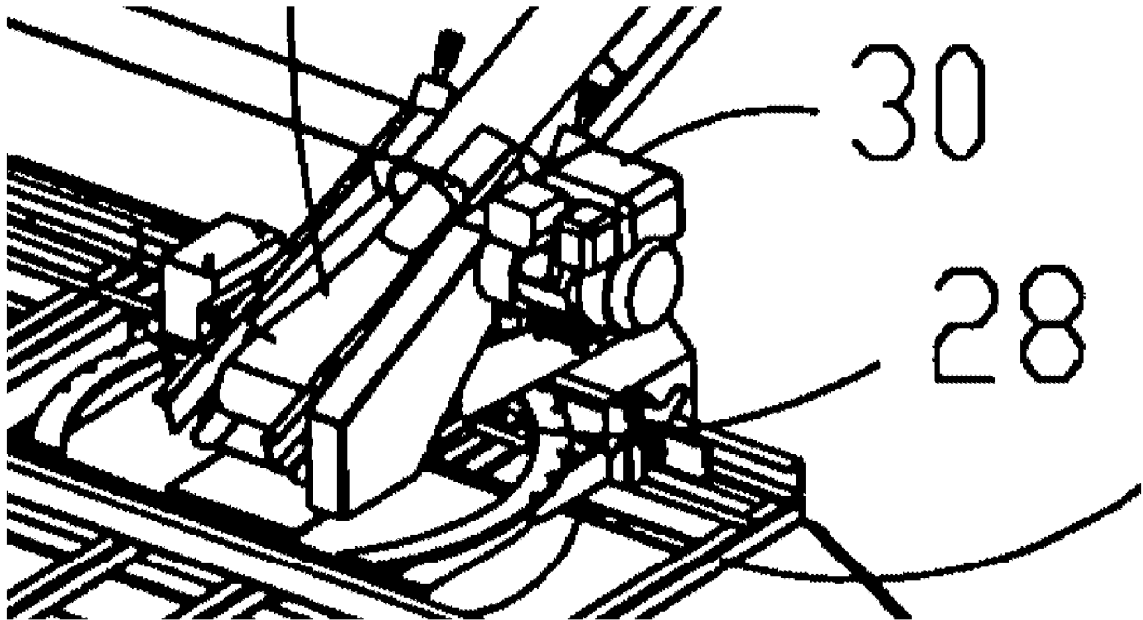


Figure B - Enlarged Figure 3, Furrer (annotated)

and a locking mechanism including retaining members fixed to the base, the examiner notes that the notches shown on turret 28 in figure B above, and engaging means for engaging with the retaining members for locking or unlocking the support arm to the base; the conveyor further includes an elevator for moving seed or grain from the conveyor hopper to the discharge, and a motor 30 positioned in the discharge for driving the elevator; the conveyor is a motor driven belt, tube conveyor, col. 4, ll. 29-31; further comprising a hydraulic piston coupled with the base plate and with the support arm, for raising and lowering the support arm, as seen in figure A above; the conveyor hopper is adjustable in

size; the discharge of the main hopper is a gravity discharge; the main hopper includes side walls inwardly converging to the discharge.

Furrer fails to disclose a mechanism for detachably coupling the first end of the conveyor with the first end of the support arm such that at a position where the conveyor hopper is positioned below the main hopper discharge, and when the conveyor is decoupled from the position, the conveyor can be rotated about the axis of the conveyor coupling to a position where the discharge of the conveyor is positioned over the main hopper; and the conveyor coupling includes a pivotable coupling with a substantially vertical axis.

Furrer does disclose "great flexibility and adaptability in the position of the conveyor. . ." (col. 4, ll. 51-53).

Baskerville discloses a mechanism 36 for detachably coupling the first end of the conveyor with the first end of the support arm such that at a position where the conveyor hopper is positioned below the main hopper discharge, see figure 4, and when the conveyor is decoupled from the position, the conveyor can be rotated about the axis of the conveyor coupling to a position where the discharge of the conveyor is positioned over the main hopper, figure 5; and the conveyor coupling includes a pivotable coupling with a substantially vertical axis in order to enhance the versatility to both load and unload (col. 5, ll. 6-7). Therefore, it would have been obvious to a person having ordinary skill in the art, at the time of invention was made, to include the mechanism of Baskerville in the device of

Furrer because Furrer has contemplated reorienting the conveyor and in order to increase the versatility of the system as well.

Response to Amendment

3. The declaration under 37 CFR 1.132 filed 02/28/2011 is insufficient to overcome the rejection of claims 1-5 and 9-11 based upon a 35 USC 103 rejection as set forth in the last Office action. The examiner understands that the declaration intended to raise two objective considerations of nonobviousness. First the applicant raises the issue of commercial success. The examiner notes that while paragraph 5 of the declaration does go into specific figures indicating the number of sales, the applicant has the burden of showing that this was the result of the claimed invention. The examiner notes this would include a showing that the company did not increase its advertising before and after the launch of the claimed product, or that the advertising was decreased and the product still sold. Additionally, the applicant references buying trends of the market, however the applicant fails to provide evidence, or statements, which show the claimed invention resulted in an increase in market share. Meaning, the applicant needs to show that the success of the claimed product resulted in an increase in market share, and not just that the market itself grew therefor resulting in increased sales totals. Further, the applicant needs to show that the success was a result of the claimed invention, in other words the nexus between the commercial success and the claimed invention must be shown. See MPEP 716.03-716.03(b).

Secondarily, the applicant states that because competitors have copied the claimed product, this is additionally objective evidence of non-obviousness. The

examiner notes that more than the mere fact of copying is needed to make that significant. See MPEP 716.06.

Response to Arguments

4. Applicant's arguments concerning the drawing objections set forth in the final rejection have been found persuasive and the objections have been withdrawn.
5. Applicant's arguments filed 02/28/2011 have been fully considered but they are not persuasive.
6. With regards to the applicant's arguments concerning the "support arm", the examiner respectfully disagrees. The examiner notes, as broadly claimed, there is no language in the claim that would preclude an interpretation of the support arm to be the component P of Furrer. Further, the applicant argues that the component P of Furrer could not operate in the claimed way, however the applicant has failed to indicate what structurally distinguishes the claimed support arm from the support arm of Furrer.
7. With regards to the applicant's arguments concerning the declaration, the examiner directs the applicant to the comments above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA I. RUDAWITZ whose telephone number is (571)272-7856. The examiner can normally be reached on Monday - Friday, 7:30 A.M. - 5:00 P.M..

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.

/Joshua I Rudawitz/
Examiner, Art Unit 3652

<i>Index of Claims</i> 	Application/Control No. 12031867	Applicant(s)/Patent Under Reexamination PETERSEN ET AL.
	Examiner JOSHUA I RUDAWITZ	Art Unit 3652

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

☐ Claims renumbered in the same order as presented by applicant						☐ CPA		☐ T.D.		☐ R.1.47	
CLAIM		DATE									
Final	Original	08/24/2009	03/10/2010	08/23/2010	03/23/2011						
	1	✓	✓	✓	✓						
	2	✓	✓	✓	✓						
	3	✓	✓	✓	✓						
	4	✓	✓	✓	✓						
	5	✓	✓	✓	✓						
	6	✓	✓	-	-						
	7	✓	✓	-	-						
	8	✓	✓	-	-						
	9	✓	✓	✓	✓						
	10	✓	✓	✓	✓						
	11			✓	✓						

<i>Search Notes</i> 	Application/Control No. 12031867	Applicant(s)/Patent Under Reexamination PETERSEN ET AL.
	Examiner JOSHUA I RUDAWITZ	Art Unit 3652

SEARCHED			
Class	Subclass	Date	Examiner
414	523	8/24/2009	SA

SEARCH NOTES		
Search Notes	Date	Examiner
Charles Fox	8/25/09	SA
Reviewed search	3/10/2010	JIR
Reviewed and updated search	8/23/2010	JIR
Reviewed and updates search with search of competitor products	3/23/2011	JIR
Discussed the declaration with TQUAS Melius	3/23/2011	JIR

INTERFERENCE SEARCH			
Class	Subclass	Date	Examiner

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REQUEST FOR CONTINUED EXAMINATION(RCE)TRANSMITTAL (Submitted Only via EFS-Web)							
Application Number	12031867	Filing Date	2008-02-15	Docket Number (if applicable)	1994-311	Art Unit	3652
First Named Inventor	Brian James PETERSEN			Examiner Name	Joshua I. Rudawitz		
This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. The Instruction Sheet for this form is located at WWW.USPTO.GOV							
SUBMISSION REQUIRED UNDER 37 CFR 1.114							
Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).							
☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.							
☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____							
☐ Other _____							
☒ Enclosed							
☒ Amendment/Reply							
☐ Information Disclosure Statement (IDS)							
☐ Affidavit(s)/ Declaration(s)							
☒ Other Request for Extension of Time							
MISCELLANEOUS							
☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of months _____ (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)							
☐ Other _____							
FEES							
The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.							
☒ The Director is hereby authorized to charge any underpayment of fees, or credit any overpayments, to Deposit Account No 022135							
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED							
☒ Patent Practitioner Signature							
☐ Applicant Signature							

Signature of Registered U.S. Patent Practitioner			
Signature	/Brian A. Tollefson/	Date (YYYY-MM-DD)	2011-02-28
Name	Brian A. Tollefson	Registration Number	46338

This collection of information is required by 37 CFR 1.114. 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 1.11 and 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, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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 the Freedom of Information Act requires disclosure of these records.
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.
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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 inspections 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.

Electronic Patent Application Fee Transmittal				
Application Number:		12031867		
Filing Date:		15-Feb-2008		
Title of Invention:		SEED CARRIER WITH PIVOTING CONVEYOR		
First Named Inventor/Applicant Name:		Brian James Petersen		
Filer:		Brian A. Tollefson/Jeannie Saxton		
Attorney Docket Number:		1994-311		
Filed as Large Entity				
Utility under 35 USC 111(a) Filing Fees				
Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				
Extension - 3 months with \$0 paid	1253	1	1110	1110

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Miscellaneous:				
Request for continued examination	1801	1	810	810
Total in USD (\$)				1920

Electronic Acknowledgement Receipt	
EFS ID:	9547974
Application Number:	12031867
International Application Number:	
Confirmation Number:	3346
Title of Invention:	SEED CARRIER WITH PIVOTING CONVEYOR
First Named Inventor/Applicant Name:	Brian James Petersen
Customer Number:	06449
Filer:	Brian A. Tollefson/Jeannie Saxton
Filer Authorized By:	Brian A. Tollefson
Attorney Docket Number:	1994-311
Receipt Date:	28-FEB-2011
Filing Date:	15-FEB-2008
Time Stamp:	16:20:39
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	\$1920
RAM confirmation Number	4029
Deposit Account	022135
Authorized User	
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows: Charge any Additional Fees required under 37 C.F.R. Section 1.21 (Miscellaneous fees and charges)	

File Listing:					
Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		1994-311_Amendment.pdf	39202	yes	9
			26f85706b595662ebbbe7db681a24b39b495f4c3		
	Multipart Description/PDF files in .zip description				
	Document Description		Start		End
	Amendment After Final		1		1
	Applicant Arguments/Remarks Made in an Amendment		2		9
Warnings:					
Information:					
2	Rule 130, 131 or 132 Affidavits	1994-311_Declaration.pdf	24603373	no	28
			719d548f2db27dd4b4a667c5cd0c14188d3940d2		
Warnings:					
Information:					
3	Request for Continued Examination (RCE)	1994-311_RCE.pdf	56957	no	3
			9052d092c5620622a619c2e55c9785e60b3cd735		
Warnings:					
This is not a USPTO supplied RCE SB30 form.					
Information:					
4	Fee Worksheet (PTO-875)	fee-info.pdf	32652	no	2
			3111cfb3ecaa8a0d2b5b012d20ad46f74e2cb8d		
Warnings:					
Information:					
Total Files Size (in bytes):			24732184		

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New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 12/031,867
Applicant : Brian James Petersen, et al.
Filed : 02/15/2008
TC/A.U. : 3652
Examiner : Joshua I. Rudawitz

Docket No. : 1994-311
Customer No. : 06449
Confirmation No. : 3346

MAIL STOP: AF

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

Sir:

REQUEST FOR RECONSIDERATION

In response to the Office Action mailed August 30, 2010, please reconsider the above-identified application in accordance with the evidence submitted herewith and the remarks that follow.

Remarks begin on **page 2** of this paper.

REMARKS

The Office Action dated August 30, 2010, has been received and carefully reviewed. The preceding amendments and the following remarks form a full and complete response thereto. Accordingly, claims 1-5 and 9-11 are pending and are submitted for reconsideration.

An objection was made to the drawings under 37 C.F.R. § 1.83(a) on the ground that the “engaging means for engaging with the retaining member,” recited in claim 1, is allegedly not shown in the drawings. Applicants respectfully traverse.

At the Examiner Interview of June 10, 2010, Examiner Rudawitz suggested Applicants amend claim 1 to include the terms “engaging means” and “retaining member” because these terms are supported by the specification and the drawings. The structure performing the function of the claimed engaging means is shown in the drawings, e.g., in Figure 5, the structural component 509 is a pin that can engage with a hole. Paragraph [0033] of the specification expressly describes the pin 509 as engaging with holes 407, i.e., “retaining members.” Thus, the drawings do show the claimed “engaging means for engaging with the retaining member,” as recited in claim 1. Accordingly, Applicants submit that the drawings satisfy the requirements of 37 C.F.R. § 1.83(a), and request that the objection be withdrawn.

Claims 1-5 and 9-11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Furrer et al. (U.S. Patent No. 7,500,817) (“Furrer”) in view of Baskerville (U.S. Patent No. 5,888,044). Applicants respectfully traverse the rejection

and submit that the subject matter of claims 1-5 and 9-11 would not have been obvious in view of the cited prior art.

Claim 1, upon which claims 2-5 and 9-10 depend, recites a seed or grain tender. The seed or grain tender includes a main hopper coupled with a frame via leg members. The main hopper includes a discharge. The seed or grain tender further includes a base coupled with said frame and positioned under said discharge of said main hopper, and a support arm rotatably coupled with the base at a first end of the support arm at a position at least partially below said discharge of said main hopper. The seed or grain tender also includes a conveyor having a conveyor tube portion, a conveyor hopper coupled to the tube portion at a first end, and a discharge coupled to the tube portion at a second end of the tube portion. The conveyor hopper includes sloped, inwardly facing walls for channeling seed or grain to said conveyor. The seed or grain tender further includes a conveyor coupling rotatably coupling said conveyor tube portion with a second end of said support arm such that said conveyor can rotate about a substantially vertical axis at said coupling. The seed or grain tender also includes a mechanism for detachably coupling the conveyor at a position where said conveyor hopper is positioned below said main hopper discharge. When the conveyor is decoupled from the position under the main hopper discharge, the conveyor can be rotated about the axis of the conveyor coupling to a position where the discharge of the conveyor is positioned over the main hopper. The seed or grain tender further includes a locking mechanism including retaining members fixed to the base and engaging means for

engaging with the retaining members for locking or unlocking the support arm to the base.

Furrer discloses an apparatus for handling agricultural seed, including conveyor mounted to a track by a turret rotatable about a vertical axis. See Furrer, col. 1, ll. 12-13 and 64-65; Figs. 1-5. Furrer fails to disclose or suggest a support arm rotatably coupled with the base at a first end of the support arm at a position at least partially below the discharge of the main hopper, as recited in claim 1. The Office Action asserted that a component P is a support arm rotatably coupled with the base at a first end of the support arm at a position at least partially below the discharge of the main hopper. Office Action, p. 4. The component P is not described in Furrer application, but it appears to be a hydraulic piston for increasing and decreasing the angle of the conveyor. It is impossible to contemplate how component P could operate as the claimed support arm (even if one could figure out how to modify the device of Furrer so that one could disconnect the fixed conveyor base and, then, rotate it as claimed). The proposed modifications to Furrer are classic hindsight reasoning.

Baskerville fails to remedy the deficiencies of Furrer for reasons already discussed in previous responses. The combination of Furrer and Baskerville fails to disclose or suggest each and every element of claim 1, upon which claims 2-5 and 9-11 depend. Accordingly, Applicants submit that the rejection is improper for this reason alone and request the rejection of claims 1-5 and 9-10 be withdrawn.

However, to highlight the impropriety of the rejection and to further support the Applicants' position that the claimed subject matter would not have been obvious, Applicants submit herewith fact evidence that, when given proper weight, overwhelmingly supports patentability. In particular, Applicants submit the Declaration of Daniel Fanger ("Fanger Declaration"), an expert in product sales in the farm implement industry. The Fanger Declaration is proof of secondary indicia of nonobviousness, and explains two separate secondary indicia that each support nonobviousness: commercial success and copying. The secondary indicia is overwhelming and highlights weakness of the rejection.

Mr. Fanger is currently employed as the Vice President of Sales and Marketing of Unverferth Manufacturing Company, Inc. ("Unverferth"), the assignees of the pending application. Fanger Declaration, ¶ 1. Mr. Fanger is familiar with the pending patent application, including the currently pending claims, and U.S. Patent No. 5,888,044 to Baskerville, which is also assigned to Unverferth. Fanger Declaration, ¶ 2. Mr. Fanger has worked in the farming industry for 45 years, and has developed a substantial knowledge of the farm implement industry, especially products and sales of seed tenders or grain carts having conveyors that are the subject of the present application. Fanger Declaration, ¶ 3.

The commercial embodiment of the present invention has had incredible commercial success. Unverferth's "Seed Runner" - the commercial embodiment of the present invention - was introduced in 2007, and Unverferth has sold approximately 3700

units of the Seed Runner in the last four years, more than any other seed or grain cart Unverferth has sold during that period of time. Fanger Declaration, ¶ 5. Unverferth originally projected that it would sell about 400 units of the Seed Runner annually, however the annual number of Seed Runner units sold has at least tripled their projections, and at least 1300 units of the Seed Runner are now sold a year. Id. This is an incredible number.

Moreover, during the time the Seed Runner has been on the market, the number of units sold by competitors that manufacture and sell products that do not include the inventive properties covered by pending claims has declined, and, in order to compete, other competitors have copied the commercial embodiment of the claimed invention. Id.

The Seed Runner has been enormously successful, and the success is directly due to the novel and nonobvious configuration of the Seed Runner, particularly, the product includes the claimed features of the support arm rotatably coupled with the base at a first end of the support arm, at a position at least partially below the discharge of the main hopper, and a conveyor, having a conveyor hopper coupled to the tube portion of the conveyor at a first end and a discharge at a second end, that is rotatably coupled to the support arm at the other end by a conveyor coupling such that the conveyor can be rotated about an axis of the conveyor coupling to a first position in which the conveyor is detachably coupled to a first end of the support arm and the conveyor hopper is positioned below the main hopper discharge and a second position in which the discharge is over the main hopper of the grain cart. See Declaration, ¶ 6.

This combination of features resulted in the industry's best load and offload seed tender / grain cart, which is evidenced by its tremendous success and the copying thereof. Id.

As mentioned, because of the unprecedented success of Unverferth's seed tender, several competitors of Unverferth have copied Unverferth's commercial embodiment of the present invention. Fanger Declaration, ¶ 7. For example, J & M Manufacturing, a direct competitor of Unverferth, recently introduced its 375 ST Speed Tender product, which is a direct copy of the commercial embodiment of the claimed invention. Fanger Declaration, ¶ 8; Exhibit 1. The likeness is unmistakable.

Another competitor, the Par-Kan Company, also recently introduced its Seed Weigh product, which is a direct copy of the commercial embodiment of the claimed invention. Fanger Declaration, ¶ 9; Exhibit 2. Again, the likeness is unmistakable.

A third competitor, CrustBuster Speed King Inc., recently introduced its 330 tender, which is also a copy of the commercial embodiment of the claimed invention. Fanger Declaration, ¶ 10; Exhibit 3. Again, the likeness is unmistakable.

These competitors copied Unverferth's Seed Runner because of the advanced, claimed features which are embodied in the product and not for any other reason. Fanger Declaration, ¶ 11. Namely, as described above, the claimed features that have made Unverferth's product such as success are the same ones that were copied. For example, the support arm rotatably coupled with the base at a first end of the support arm at a position at least partially below the discharge of the main hopper and the ability to detachably couple the conveyor from an unloading position where the conveyor

hopper is positioned below the main hopper discharge and, when the conveyor is decoupled from the position under the main hopper, it can be rotated about into a loading position, give the commercial embodiment of the claimed invention an ability to load and unload with the same conveyor that is unsurpassed by any other competitive product. Id.

The evidence provided is overwhelmingly strong and proves that the invention would not have been obvious. Indeed, if it had been, why was Unverferth's product so successful and so imitated? Since the commercial success of the commercial embodiment is directly related to claimed features, Applicants submit that the secondary indicia proves the nonobviousness of the present invention. The weight of this evidence cannot be ignored and it must be considered. Transocean Offshores Deepwater Drilling, Inc. v. Maersk Contractors USA, Inc., 617 F.3d 1296 (Fed. Cir. 2010). The only evidence that could rebut this strong evidence is the Examiner's improper hindsight analysis, which cannot be given any weight. Thus, the weight of the evidence by far favors patentability. Accordingly, Applicants submit that the rejection is improper and request the rejection of claims 1-5 and 9-10 be withdrawn.

In view of the above, all objections and rejections have been sufficiently addressed. Applicants submit that the application is now in condition for allowance and request that claims 1-5 and 9-11 be allowed and this application passed to issue.

In view of the foregoing, it is submitted that the present application is now in condition for allowance. Reconsideration and allowance of the pending claims are

requested. The Director is authorized to charge any fees or credit any overpayment to Deposit Account No. 02-2135.

In the event that this paper is not timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account No. 02-2135.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the Applicants' undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

Respectfully submitted,

By: /Brian A. Tollefson/
Brian A. Tollefson
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 12/031,867
Applicant : Brian James Petersen, et al.
Filed : 02/15/2008
TC/A.U. : 3652
Examiner : Joshua I. Rudawitz

Docket No. : 1994-311
Customer No. : 06449
Confirmation No. : 3346

DECLARATION PURSUANT TO 37 C.F.R. § 1.132

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

Sir:

I, Daniel Fanger, declare as follow:

1. I am currently employed as the Vice President of Sales and Marketing of Unverferth Manufacturing Company, Inc. ("Unverferth"), the assignee of the above-referenced U.S. patent application.

2. I am familiar with the subject matter of the above-referenced patent application, including the currently pending claims. I am also familiar with the Office Action mailed August 30, 2010, for this application, and of U.S. Patent No. 5,888,044 to Baskerville (also assigned to Unverferth) cited as prior art therein.

3. I have worked in the farming industry for 45 years. My current responsibilities are to manage and direct all sales and marketing activities of Unverferth

and its products. In the course of my work in the farming industry, I have developed substantial expertise and knowledge of the farm implement industry, especially products and sales of seed tenders or grain carts having conveyors that are the subject of the present application.

4. In my opinion, the invention of above-referenced U.S. patent application would not have been obvious in view of the '044 patent to Baskerville, at the time of the invention, which I understand is the critical time for making the evaluation. I believe this because Unverferth was the first manufacturer to offer the invented seed tender commercially and the product has been remarkably successful, and has been copied by several of Unverferth's competitors.

5. Unverferth is the market leader in the seed or grain cart market. The commercial embodiment of the above-referenced patent application was introduced in 2007, after the filing of the present application, as "Seed Runner." Unverferth has sold approximately 3700 units in the last approximately 4 years, which is more than any other seed or grain cart Unverferth sells or has sold during that period of time. The original projection for annual number of units sold of the Seed Runner was 400 units per year. The annual number of units sold of the Seed Runner has at least tripled the original projection, and at least 1300 units of the Seed Runner are now sold per year. I have observed another trend that confirms my opinion that the present invention would not have been obvious. That is, during the time the Seed Runner has been on the market, the number of units sold for non-infringing products has declined, while at the

same time, competitors have copied the commercial embodiment of the claimed invention.

6. It is my opinion that this product has been enormously successful and that the success of the product is due to the novel and nonobvious configuration of the commercial product. Particularly, the product includes the claimed features relating to providing a support arm rotatably coupled with the base at a first end of the support arm, at a position at least partially below the discharge of the main hopper, and a conveyor, having a conveyor hopper coupled to the tube portion of the conveyor at a first end and a discharge at a second end, that is rotatably coupled to the support arm at the other end by a conveyor coupling such that the conveyor can be rotated about an axis of the conveyor coupling to a first position in which the conveyor is detachably coupled to a first end of the support arm and the conveyor hopper is positioned below the main hopper discharge and a second position in which the discharge is over the main hopper of the grain cart. This combination of features resulted in the best and easiest to use load and offload seed tender / grain cart that the market had ever seen, which is evidenced by its tremendous success and the copying thereof.

7. Several competitors of Unverferth have copied Unverferth's product which is covered by the claims of the present application. As I understand it, this further proves the nonobviousness of the present claims.

8. J & M Manufacturing introduced product 375ST Speed Tender, copying the commercial embodiment of the claimed invention. See Exhibit 1 to my declaration.

9. Par-Kan Company introduced product Seed Weigh, copying the commercial embodiment of the claimed invention. See Exhibit 2 to my declaration.

10. CrustBuster Speed King Inc. introduced the 330 tender, copying the commercial embodiment of the claimed invention. See Exhibit 3 to my declaration.

11. In my opinion, Unverferth's competitors copied Unverferth's product because of the novel and nonobvious combination of claim features, which are embodied in the product, and not for any other reason. Namely, the combination of claimed features, such as the support arm rotatably coupled with the base at a first end of the support arm at a position at least partially below the discharge of the main hopper and the ability to detachably couple the conveyor from an unloading position where the conveyor hopper is positioned below the main hopper discharge and, when the conveyor is decoupled from the position under the main hopper, it can be rotated about into a loading position, give the commercial embodiment of the claimed invention an ability to load and unload with the same conveyor that is unsurpassed by any other previous competitive product.

12. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

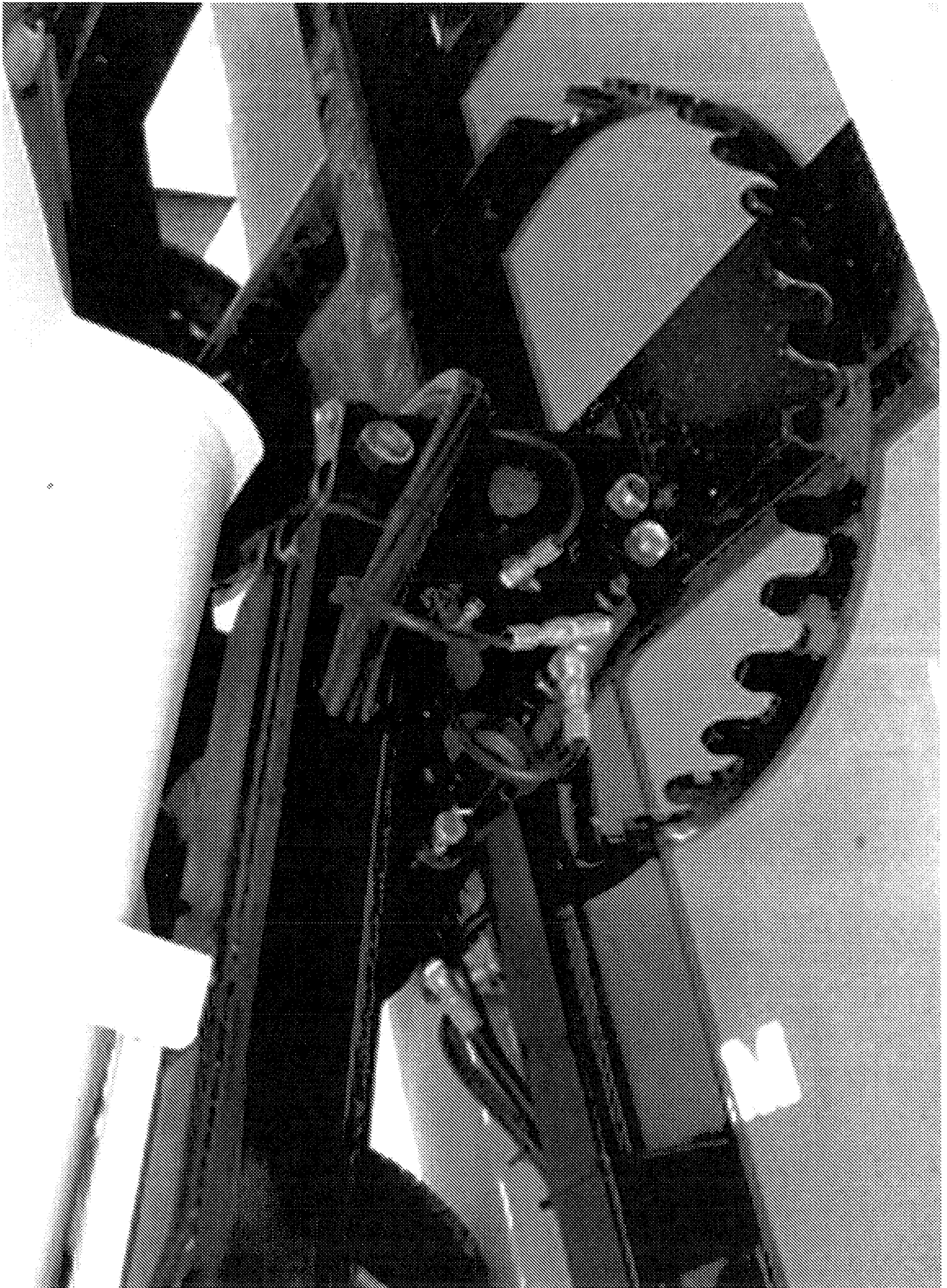
Daniel Fanger

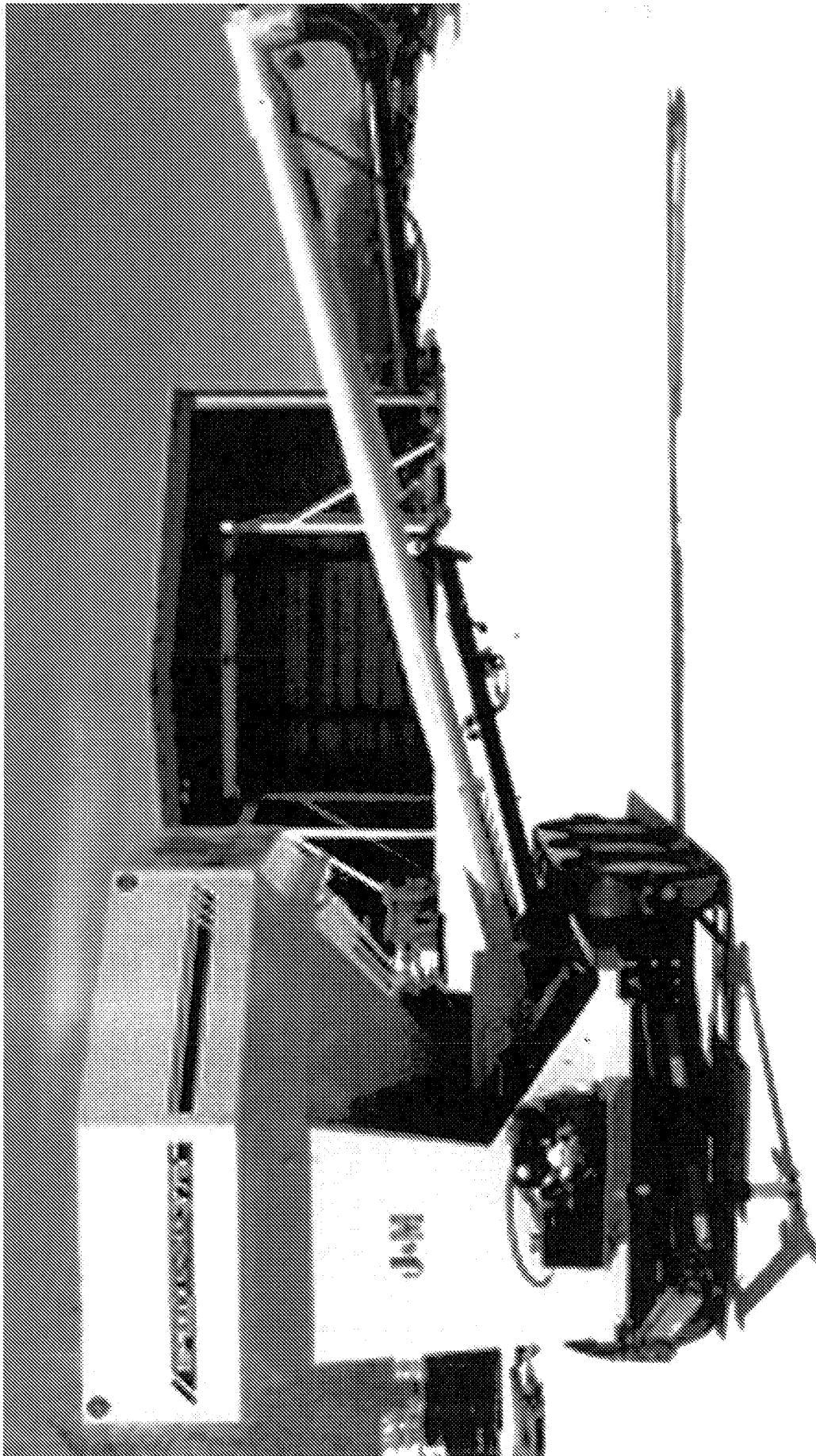
Daniel Fanger

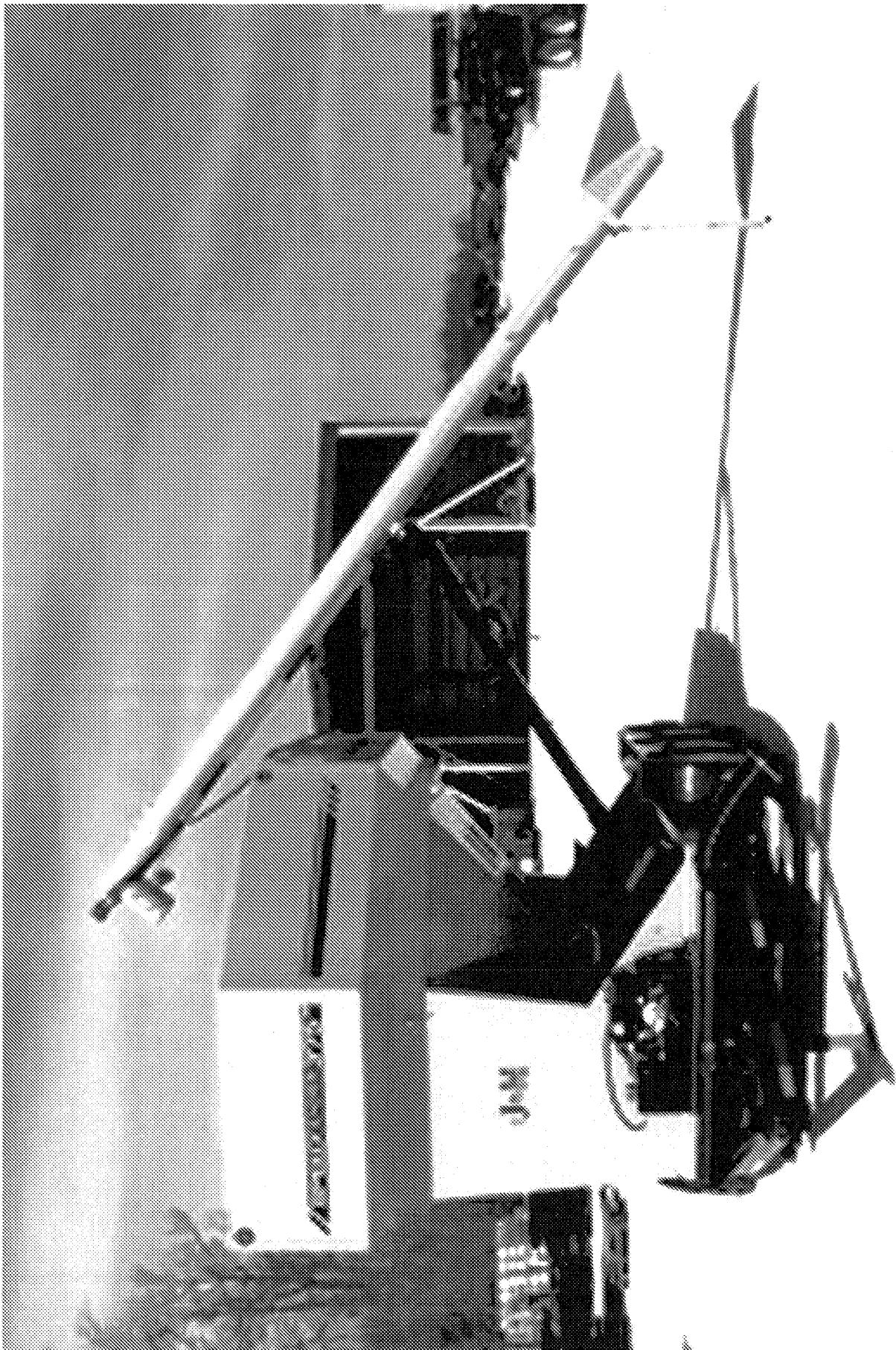
February 1, 2011

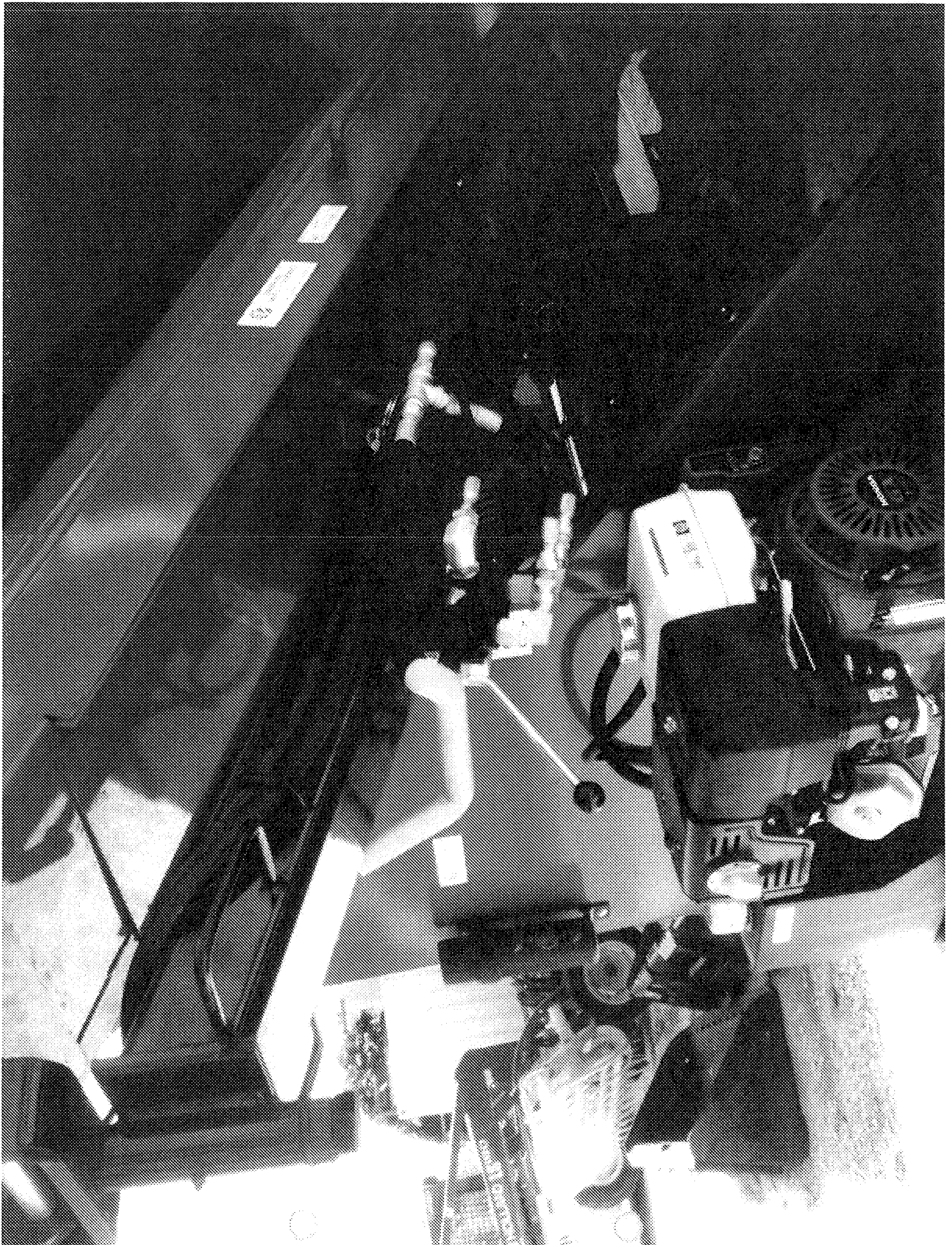
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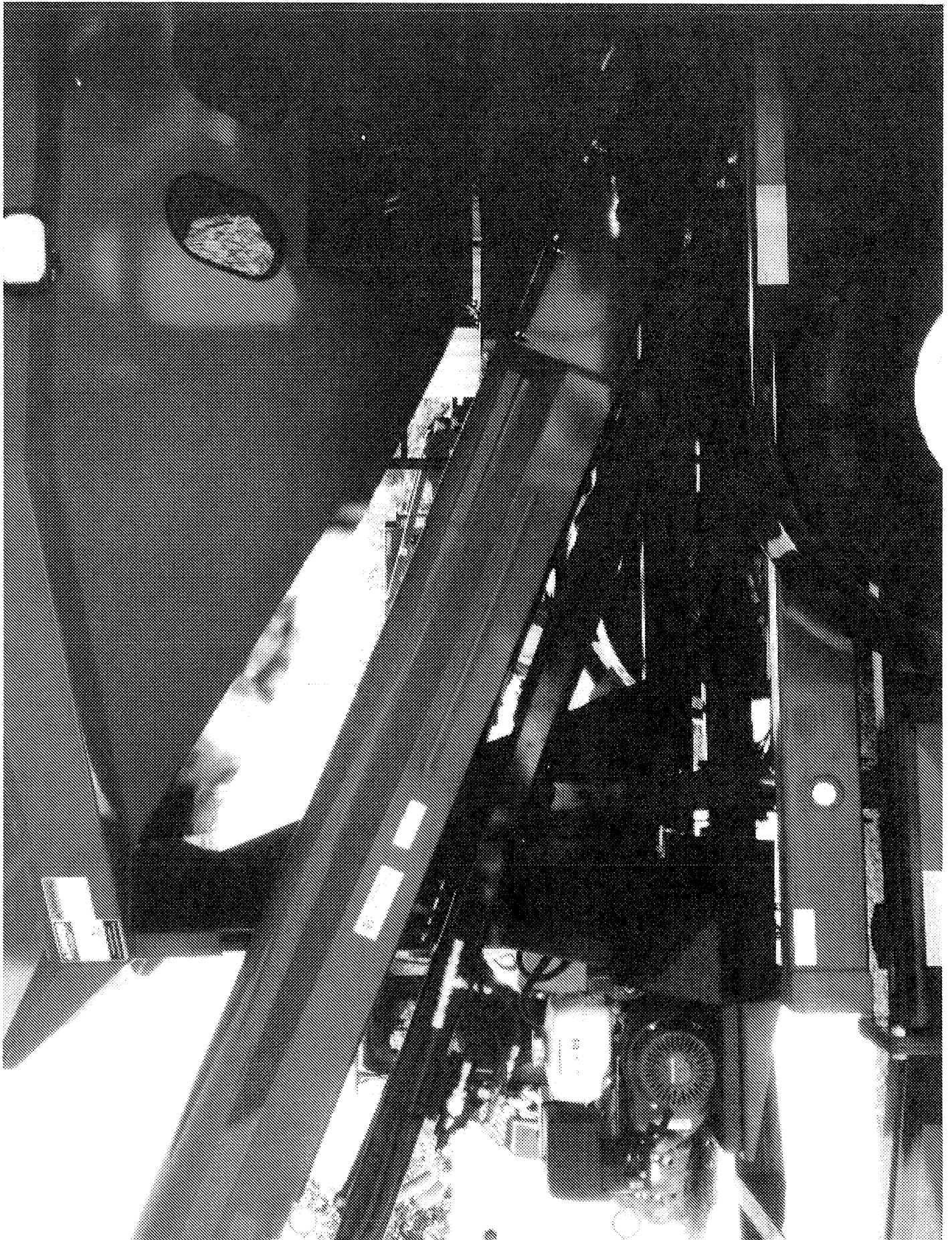
EXHIBIT 1

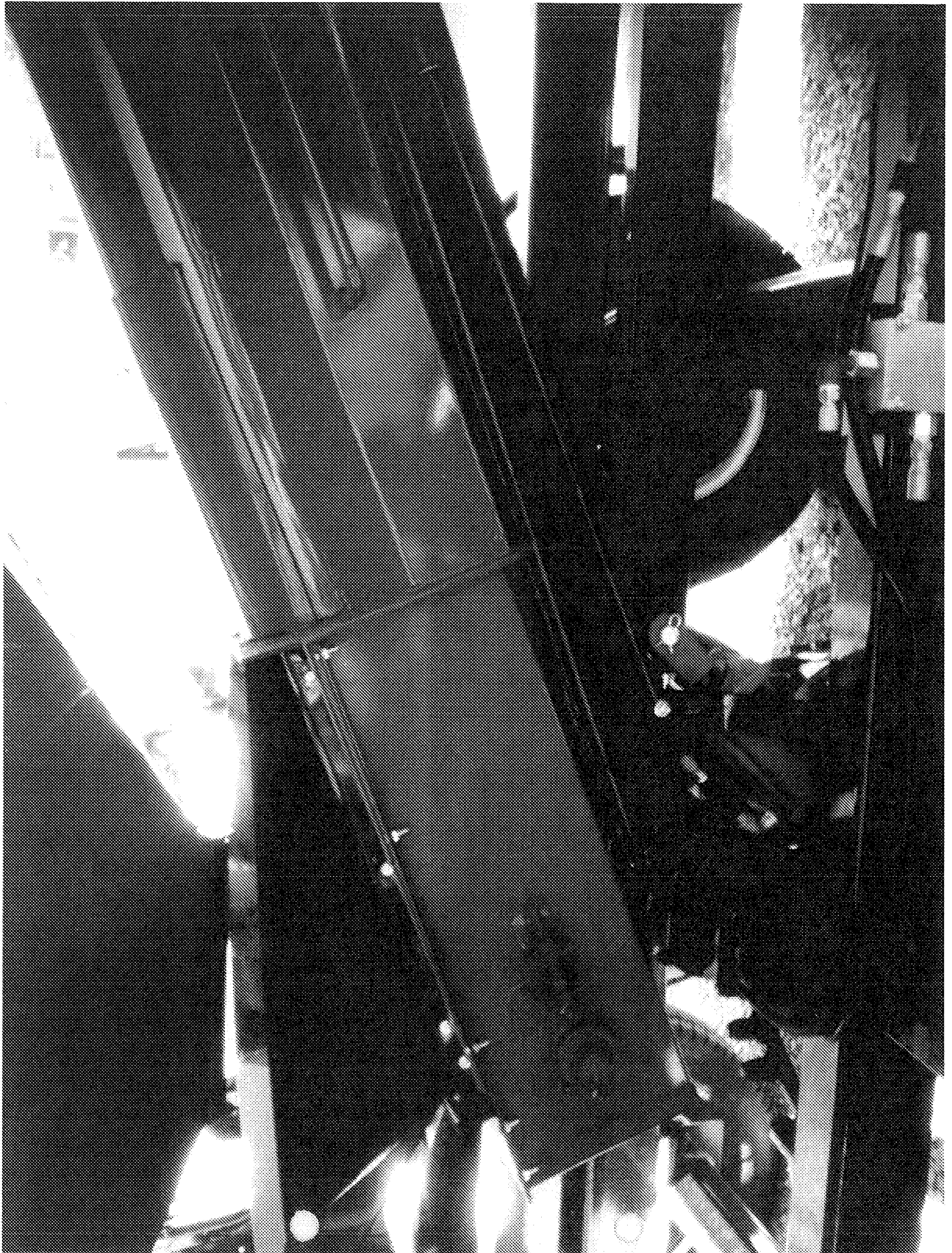


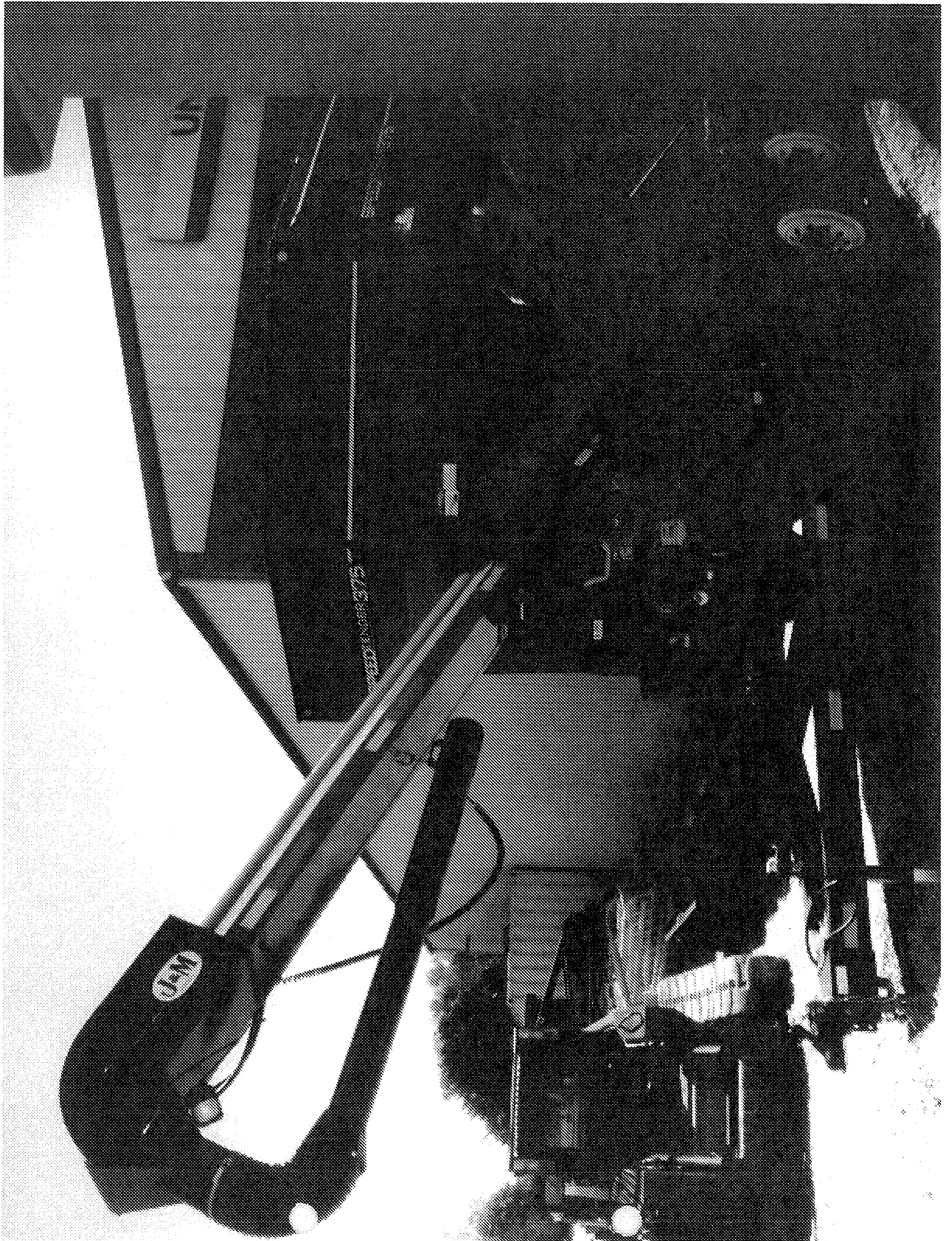












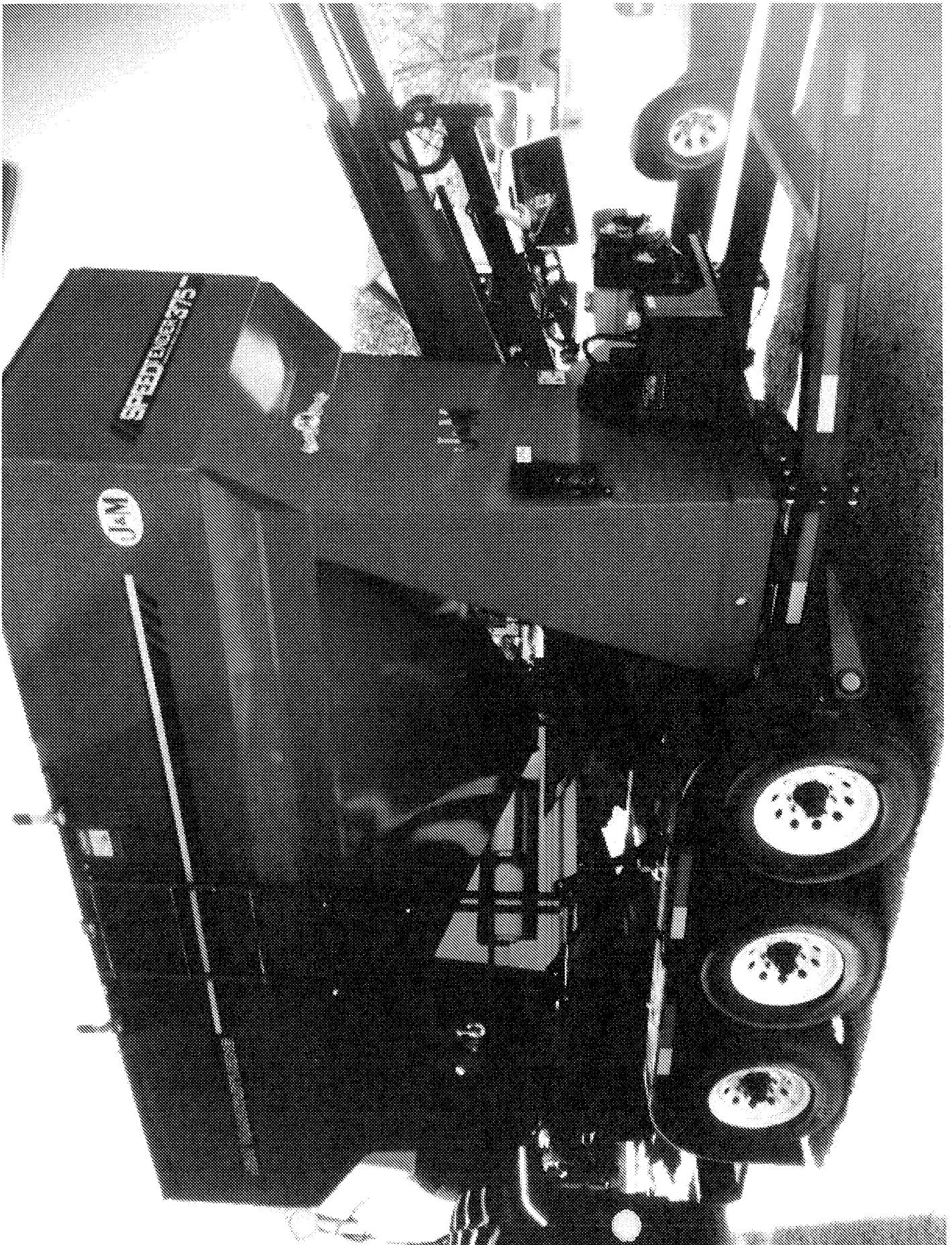
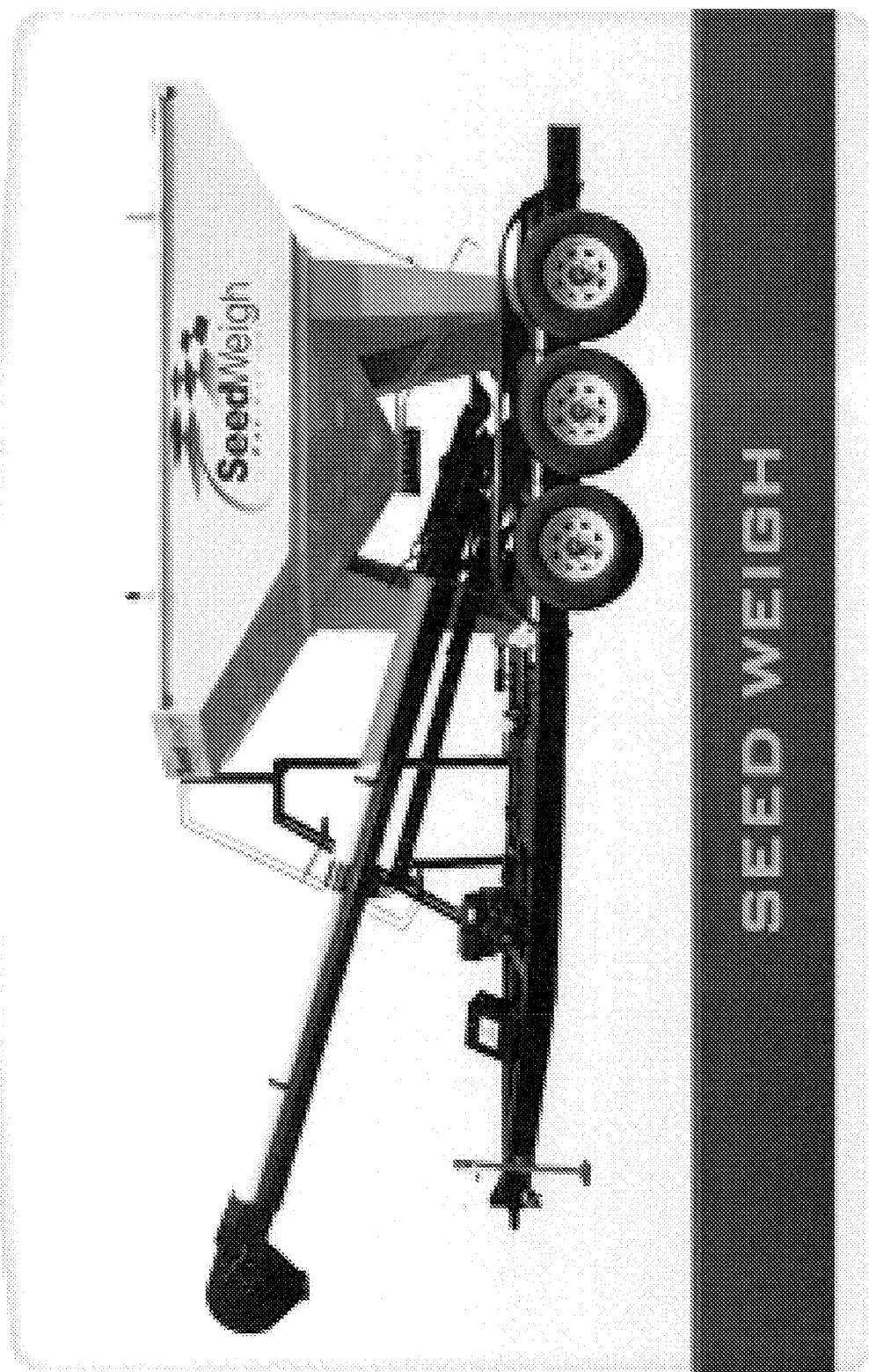


EXHIBIT 2









SEED WEIGH

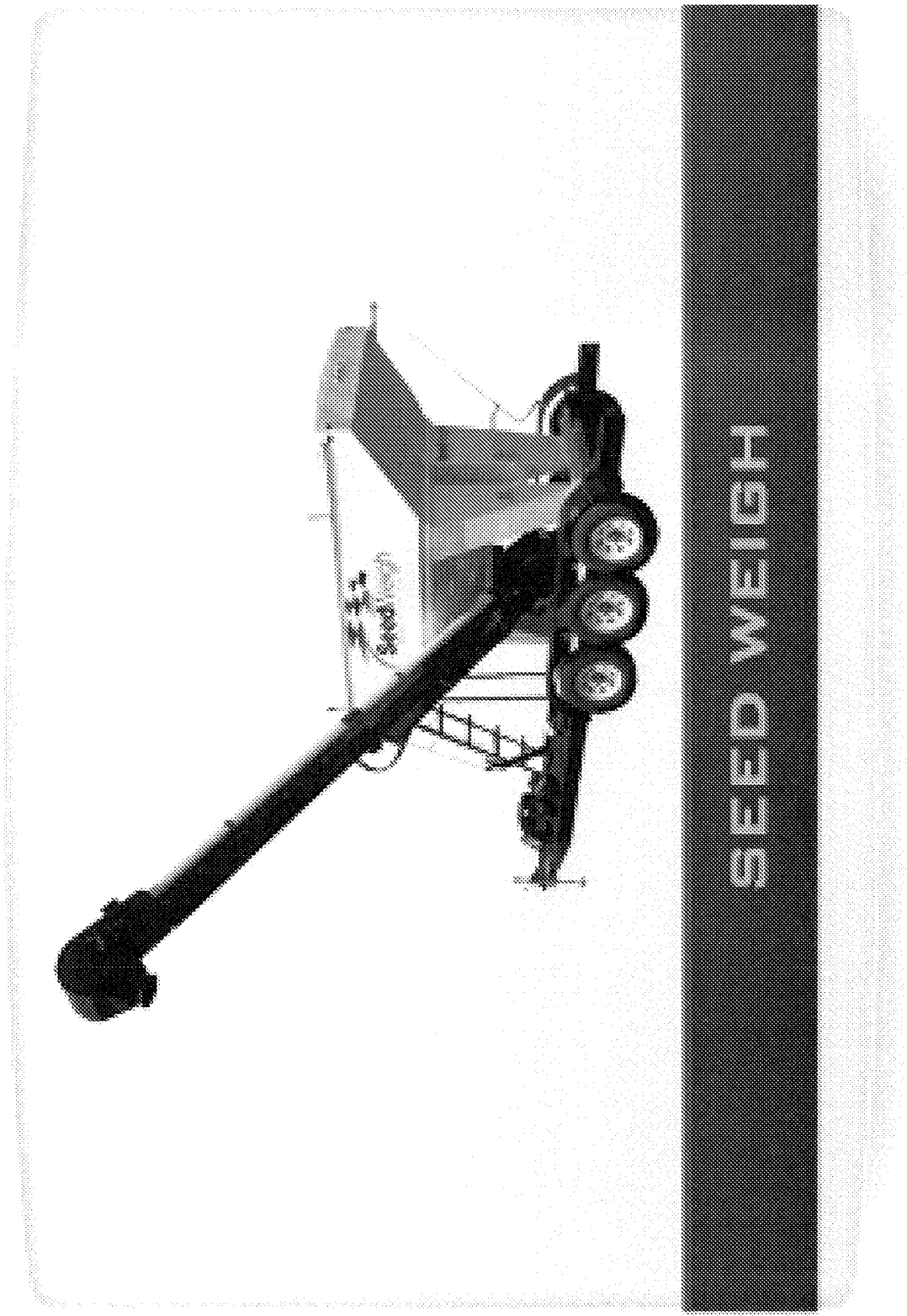


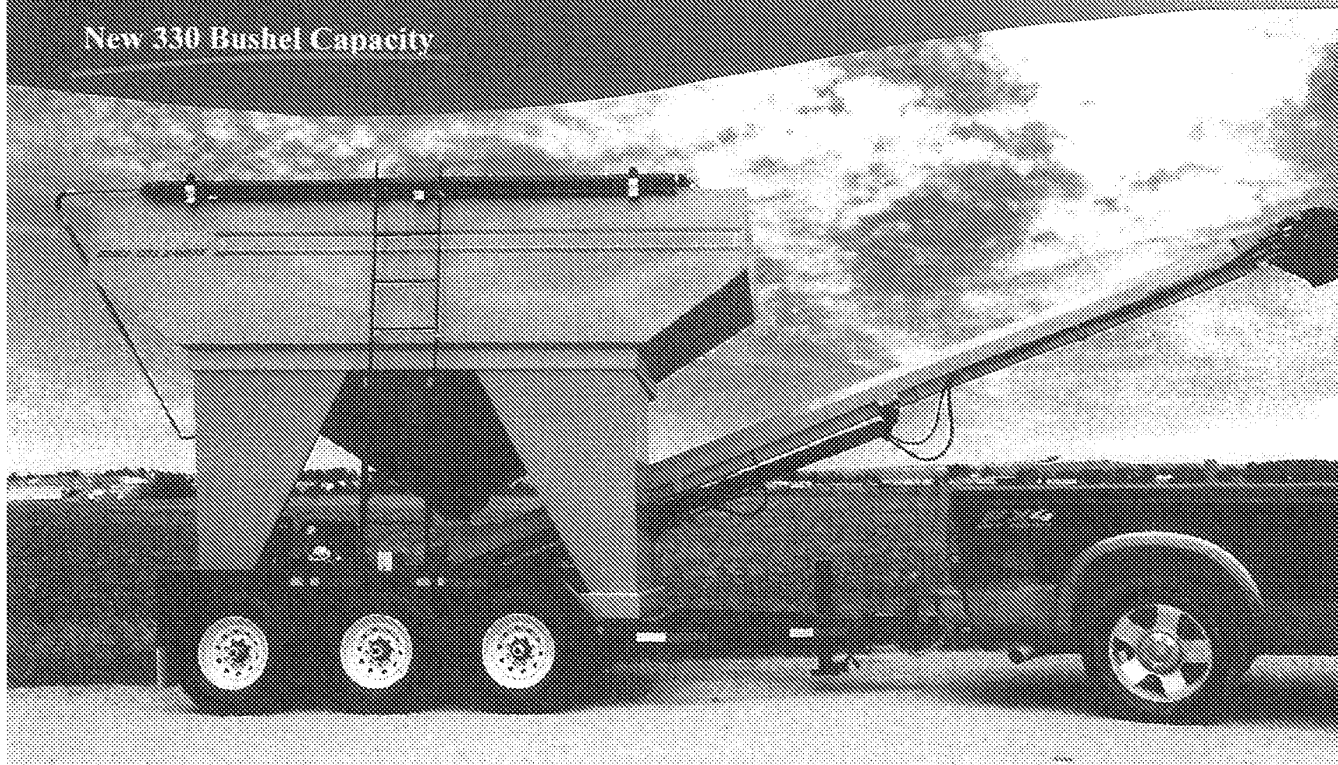
EXHIBIT 3



330 Tender

High Capacity and Versatility

New 330 Bushel Capacity

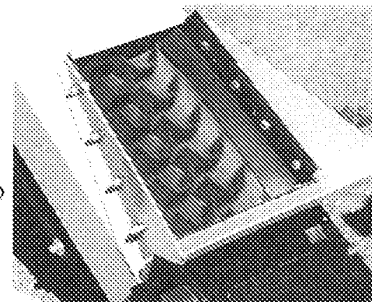


HONEYCOMB BELT DESIGN



Introducing the all new 330 Bushel Seed Tender from CrustBuster/Speed King, Inc. See how we are setting the pace through innovation!

Our patent pending interlocking honeycomb belt design offers the highest conveyance capacity in the industry while requiring far less operating power.



P.O. BOX 1438 DODGE CITY, KS 67801
620.227.7106 www.crustbuster.com

CrustBuster
SPEED KING INC.

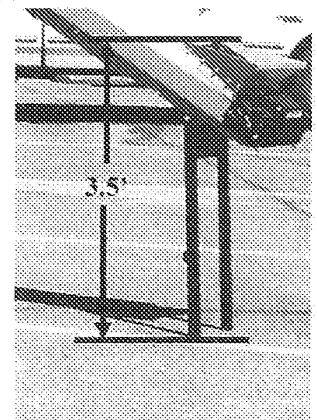


Fast, Convenient & Versatile 3-in-1 Seed Handling

POWERFUL VERSATILITY

The 330's honeycomb-style beltveyor can swivel a full 180°. The conveyor can lock into transport position at either the front or the rear of the tender. The design of the conveyor even allows you to rotate and set it 90° from the tender, allowing quick and easy transfer of seed from one container to another.

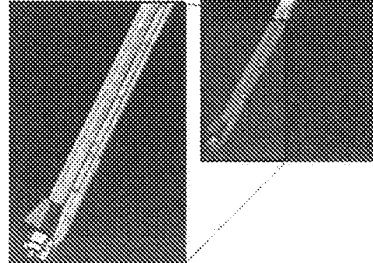
The loading stand at the bottom of the conveyor allows the hopper to be placed 3.5 feet off the ground for easier self-filling from bulk-container boxes or bags, as well as providing an ideal loading angle.



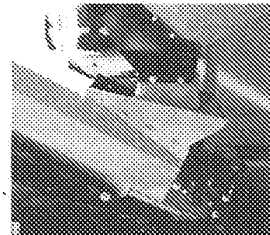
LOADED WITH FEATURES

High Performance Material Handling with Low Power Requirements

- Patent-pending honeycomb belt design allows for a solid interlocking cleat pattern, which in turn provides a smooth return on the face of the cleated belt. This, combined with trough rollers on the out-load side, greatly reduces the friction of the belt. This decreases the power requirements of the belt while maintaining the best material handling performance in the industry.



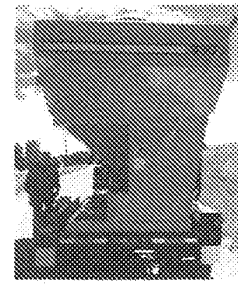
- The conveyor base features rollers that pivot a full 180°.
- The base can be locked into position anywhere along that range of motion in 2" increments.
- Pivot track features bolt-on stainless-steel wear plates for added durability.



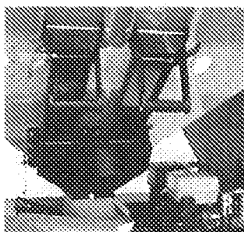
- Frame-mounted lift lugs facilitate mounting and dismounting the box from the undercarriage.



- The 330 Tender's undercarriage features durable steel construction, rubber-cushioned suspension, LED lights, reflectors and transport chains for safety and durability during transport.
- A standard, snug-fitting 18-ounce rollover tarp protects contents from the weather, and stays tightly locked, even at highway speeds.
- The 330's beltveyor is powered by an 11 HP Honda gas engine with electric start standard.



- Large, collapsible hopper allows the unit to self-feed the conveyor without spilling over.



- Easy-open adjustable gate controls seed flow.
- Retractable ladder and dual viewing window make checking your seed both quick and convenient while loading and unloading.



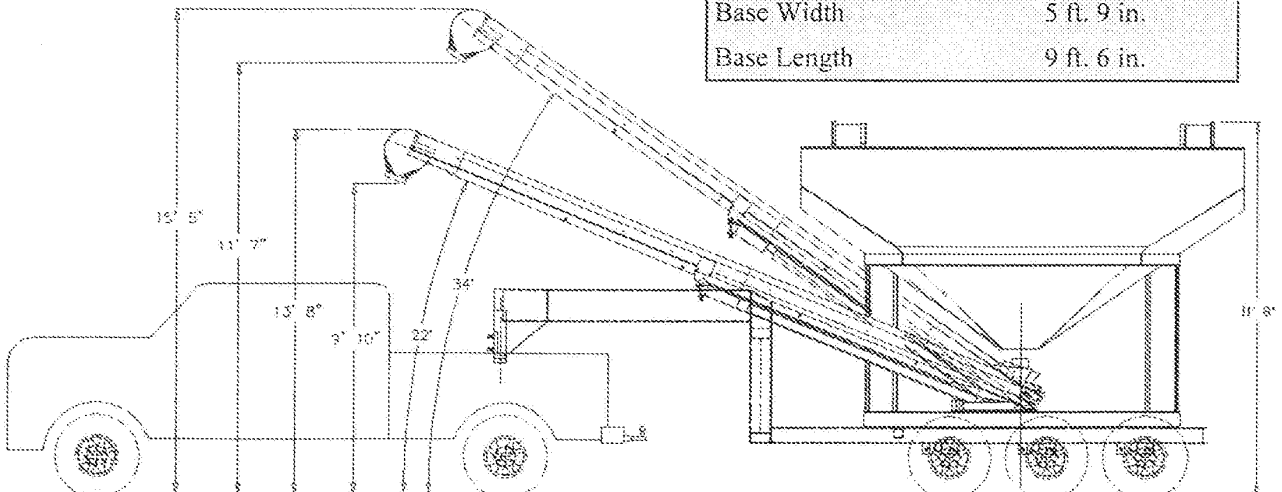
OPTIONS & SPECIFICATIONS

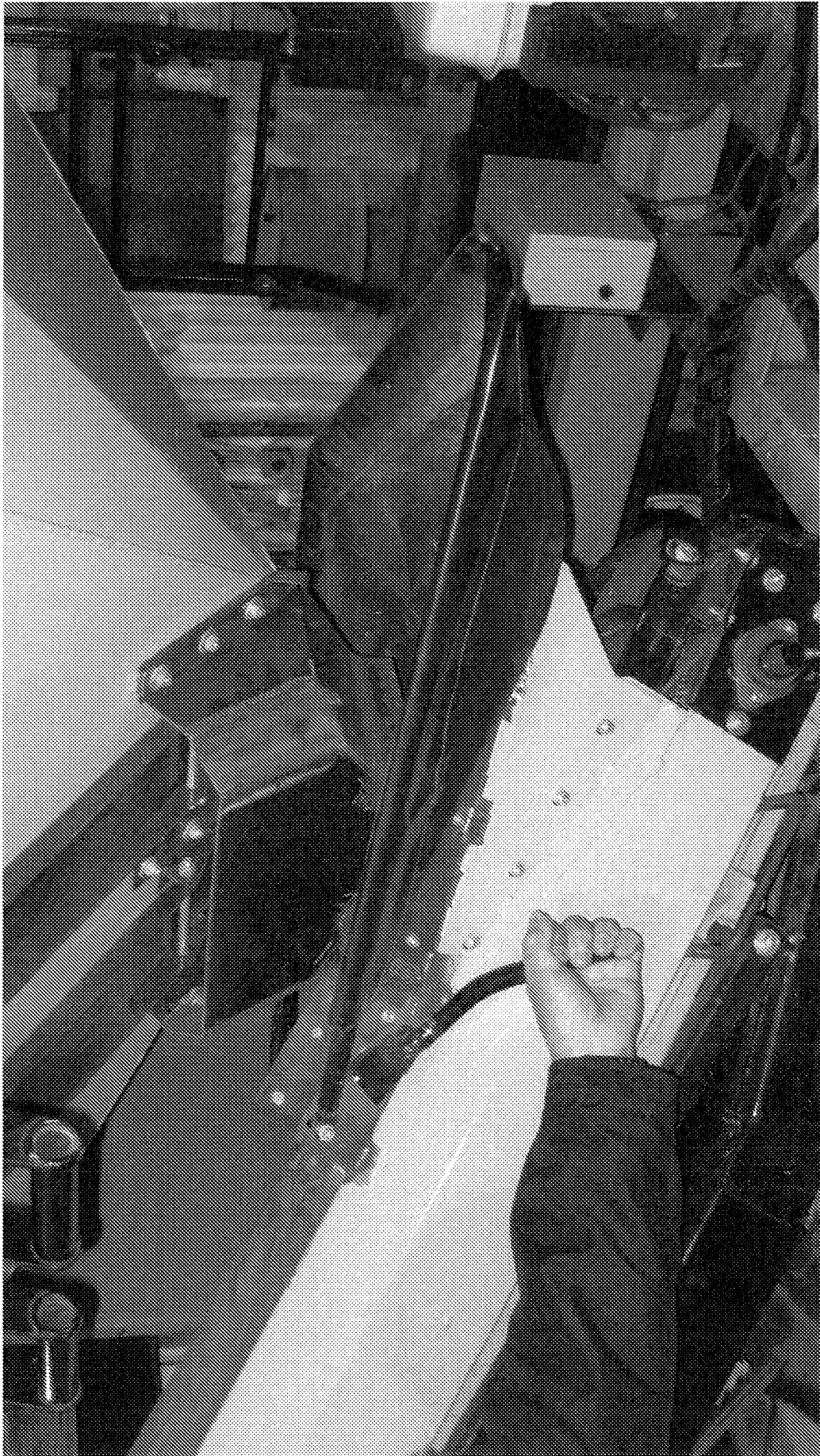
- The 330 Bushel Tender is available with a gooseneck hitch for even greater carrying ease.
- Spout-mounted spotlight available for easier nighttime filling.
- Optional frame-mounted spare tire available for quickly changing flats while on the road or in the field.



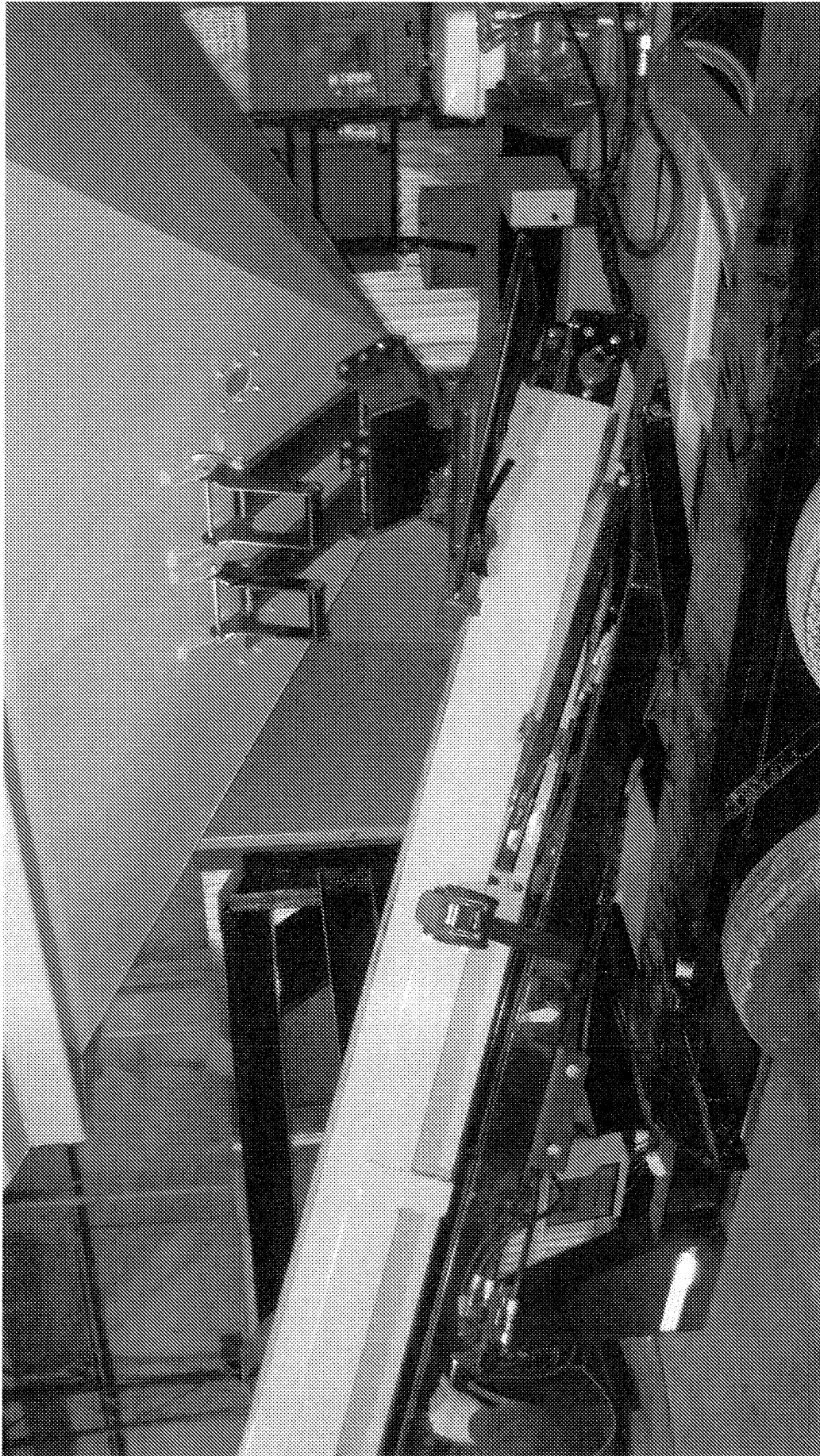
Conveyor Specifications	
Add deck height of trailer to obtain actual heights	
Height at 34°	13 ft.
Unload Height at 34°	11 ft. 7 in.
Reach at 34°	18 ft.
Height at 20°	7 ft. 9 in.
Unload Height at 20°	7 ft.
Reach at 20°	20 ft.

Specifications of Tender Without Trailer	
Capacity	330 Bushels
Height of Tank	9 ft. 8 in.
Length of Tank	14 ft.
Width of Tank with Ladder	8 ft. 2.5 in.
Width of Tank without Ladder	7 ft. 10 in.
Weight (approx.)	5000 lbs.
Length with Conveyor Forward	26 ft. 8 in.
Base Width	5 ft. 9 in.
Base Length	9 ft. 6 in.









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.

PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875					Application or Docket Number 12/031,867		Filing Date 02/15/2008		☐ To be Mailed	
APPLICATION AS FILED – PART I										
(Column 1)			(Column 2)			SMALL ENTITY ☐ OR		OTHER THAN SMALL ENTITY		
FOR	NUMBER FILED	NUMBER EXTRA	RATE (\$)	FEE (\$)	OR	RATE (\$)	FEE (\$)			
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A			N/A				
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A			N/A				
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A			N/A				
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X \$ =			X \$ =				
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X \$ =			X \$ =				
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).									
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))										
* If the difference in column 1 is less than zero, enter "0" in column 2.										
APPLICATION AS AMENDED – PART II										
(Column 1)			(Column 2)			SMALL ENTITY OR		OTHER THAN SMALL ENTITY		
AMENDMENT	02/28/2011	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)	OR	RATE (\$)	ADDITIONAL FEE (\$)	
	Total (37 CFR 1.16(i))	* 8	Minus	** 20	= 0	X \$ =		OR	X \$52=	0
	Independent (37 CFR 1.16(h))	* 1	Minus	*** 3	= 0	X \$ =		OR	X \$220=	0
☐ Application Size Fee (37 CFR 1.16(s))										
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))										
					TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE	0	
(Column 1)			(Column 2)			SMALL ENTITY OR		OTHER THAN SMALL ENTITY		
AMENDMENT		CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)	OR	RATE (\$)	ADDITIONAL FEE (\$)	
	Total (37 CFR 1.16(i))	*	Minus	**	=	X \$ =		OR	X \$ =	
	Independent (37 CFR 1.16(h))	*	Minus	***	=	X \$ =		OR	X \$ =	
☐ Application Size Fee (37 CFR 1.16(s))										
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))										
					TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE		
* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.										
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".										
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".										
The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.										
Legal Instrument Examiner: /WANDA ANTHONY/										

This collection of information is required by 37 CFR 1.16. 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, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/031,867	02/15/2008	Brian James Petersen	1994-311	3346

6449	7590	08/30/2010
ROTHWELL, FIGG, ERNST & MANBECK, P.C.		
1425 K STREET, N.W.		
SUITE 800		
WASHINGTON, DC 20005		

EXAMINER	
RUDAWITZ, JOSHUA I	

ART UNIT	PAPER NUMBER
3652	

NOTIFICATION DATE	DELIVERY MODE
08/30/2010	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):

PTO-PAT-Email@rfem.com

Office Action Summary	Application No.	Applicant(s)	
	12/031,867	PETERSEN ET AL.	
	Examiner	Art Unit	
	JOSHUA I. RUDAWITZ	3652	

-- 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 15 June 2010.

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) 1-5 and 9-11 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-5 and 9-11 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 15 February 2008 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) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the engaging means for engaging with the retaining members, of claim 1, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

2. 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.

3. Claims 1-5 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furrer et al. (US 7,500,817) in view of Baskerville (US 5,888,044).

Furrer et al. (Furrer) discloses a seed or grain tender including a main hopper 13 coupled with a frame 15 via leg members 42, the main hopper having a discharge 69; a base 28 coupled with the frame, positioned under the main hopper;

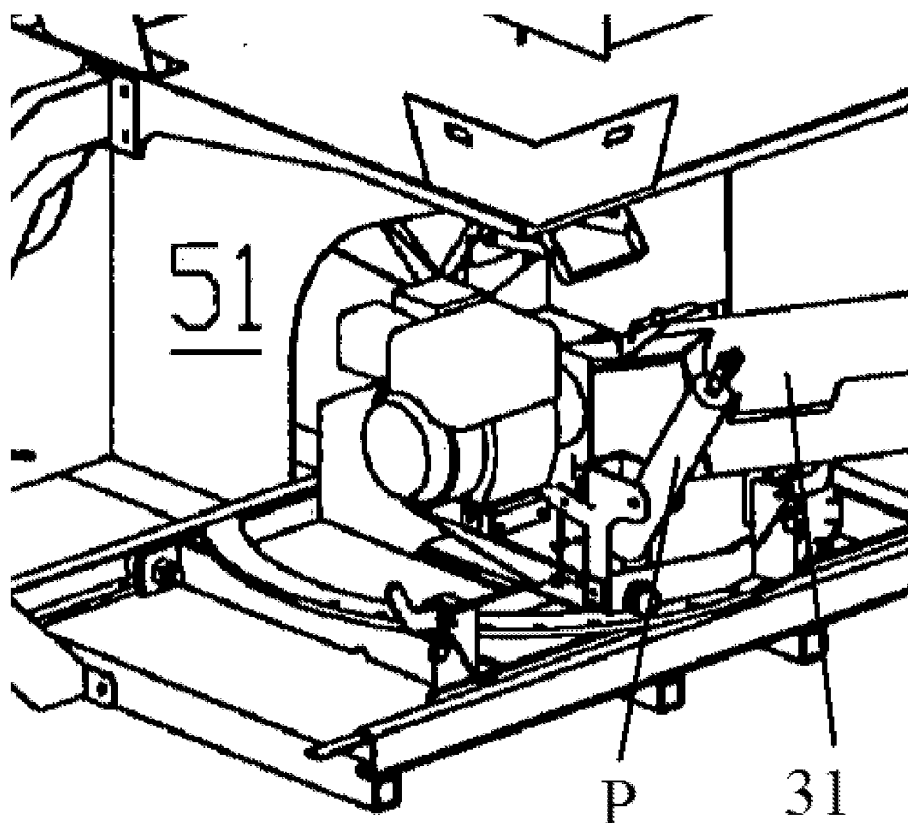


Figure A - Enlarged figure 5 of Furrer (annotated)

a support arm, P figure A above, rotatably coupled with the base at a first end of the support arm at a position at least partially below the discharge of the main hopper; a conveyor having a conveyor tube portion 31, a conveyor hopper 34 coupled to the tube portion at a first end, and a discharge 36 coupled to the tube portion at a second end of the tube portion, wherein the conveyor hopper includes sloped, inwardly facing walls for channeling seed or grain to the conveyor; a conveyor coupling rotatably coupling the conveyor tube portion with

a second end of the support arm such that the conveyor can rotate about at least one axis at the coupling;

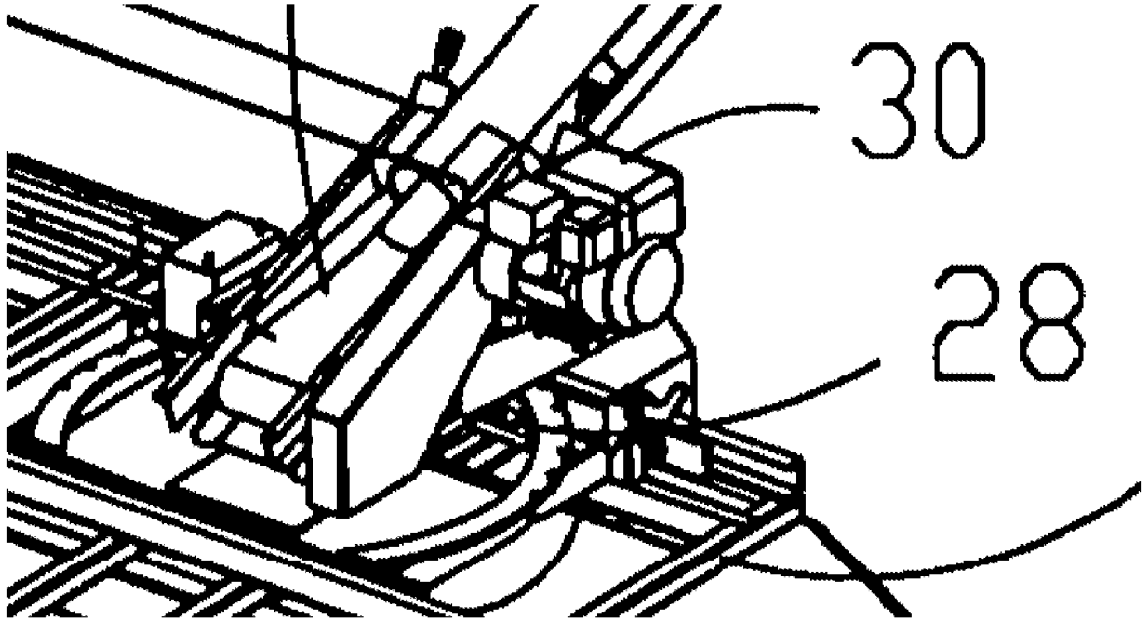


Figure B - Enlarged Figure 3, Furrer (annotated)

and a locking mechanism including retaining members fixed to the base, the examiner notes that the notches shown on turret 28 in figure B above, and engaging means for engaging with the retaining members for locking or unlocking the support arm to the base; the conveyor further includes an elevator for moving seed or grain from the conveyor hopper to the discharge, and a motor 30 positioned in the discharge for driving the elevator; the conveyor is a motor driven belt, tube conveyor, col. 4, ll. 29-31; further comprising a hydraulic piston coupled with the base plate and with the support arm, for raising and lowering the support arm, as seen in figure A above; the conveyor hopper is adjustable in

size; the discharge of the main hopper is a gravity discharge; the main hopper includes side walls inwardly converging to the discharge.

Furrer fails to disclose a mechanism for detachably coupling the first end of the conveyor with the first end of the support arm such that at a position where the conveyor hopper is positioned below the main hopper discharge, and when the conveyor is decoupled from the position, the conveyor can be rotated about the axis of the conveyor coupling to a position where the discharge of the conveyor is positioned over the main hopper; and the conveyor coupling includes a pivotable coupling with a substantially vertical axis.

Furrer does disclose "great flexibility and adaptability in the position of the conveyor. . ." (col. 4, ll. 51-53).

Baskerville discloses a mechanism 36 for detachably coupling the first end of the conveyor with the first end of the support arm such that at a position where the conveyor hopper is positioned below the main hopper discharge, see figure 4, and when the conveyor is decoupled from the position, the conveyor can be rotated about the axis of the conveyor coupling to a position where the discharge of the conveyor is positioned over the main hopper, figure 5; and the conveyor coupling includes a pivotable coupling with a substantially vertical axis in order to enhance the versatility to both load and unload (col. 5, ll. 6-7). Therefore, it would have been obvious to a person having ordinary skill in the art, at the time of invention was made, to include the mechanism of Baskerville in the device of

Furrer because Furrer has contemplated reorienting the conveyor and in order to increase the versatility of the system as well.

Response to Arguments

4. Applicant's arguments with respect to claims 1-5 and 9-11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. 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 JOSHUA I. RUDAWITZ whose telephone number is (571)272-7856. The examiner can normally be reached on Monday - Friday, 7:30 A.M. - 5:00 P.M..

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.

/J. I. R./
Examiner, Art Unit 3652

/CHARLES A. FOX/
Primary Examiner, Art Unit 3652

Notice of References Cited	Application/Control No. 12/031,867	Applicant(s)/Patent Under Reexamination PETERSEN ET AL.	
	Examiner JOSHUA I. RUDAWITZ	Art Unit 3652	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-3,968,771 A	07-1976	Walgenbach et al.	118/303
*	B	US-4,503,803 A	03-1985	Barnes, Ronald A.	118/303
*	C	US-5,800,116 A	09-1998	Smith et al.	414/523
*	D	US-6,209,880 B1	04-2001	Turnwald et al.	277/402
*	E	US-6,325,588 B1	12-2001	Nolin, Karl W.	414/526
*	F	US-6,604,620 B2	08-2003	Dennis, Andrew	198/312
*	G	US-6,767,174 B2	07-2004	Cresswell, Mark	414/523
*	H	US-7,488,149 B2	02-2009	Waldner, Samuel	414/532
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	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>Index of Claims</i> 	Application/Control No. 12031867	Applicant(s)/Patent Under Reexamination PETERSEN ET AL.
	Examiner JOSHUA I RUDAWITZ	Art Unit 3652

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

☐ Claims renumbered in the same order as presented by applicant		☐ CPA		☐ T.D.		☐ R.1.47			
CLAIM		DATE							
Final	Original	08/24/2009	03/10/2010	08/23/2010					
	1	✓	✓	✓					
	2	✓	✓	✓					
	3	✓	✓	✓					
	4	✓	✓	✓					
	5	✓	✓	✓					
	6	✓	✓	-					
	7	✓	✓	-					
	8	✓	✓	-					
	9	✓	✓	✓					
	10	✓	✓	✓					
	11			✓					

<i>Search Notes</i> 	Application/Control No. 12031867	Applicant(s)/Patent Under Reexamination PETERSEN ET AL.
	Examiner JOSHUA I RUDAWITZ	Art Unit 3652

SEARCHED			
Class	Subclass	Date	Examiner
414	523	8/24/2009	SA

SEARCH NOTES		
Search Notes	Date	Examiner
Charles Fox	8/25/09	SA
Reviewed search	3/10/2010	JIR
Reviewed and updated search	8/23/2010	JIR

INTERFERENCE SEARCH			
Class	Subclass	Date	Examiner

--	--



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/031,867	02/15/2008	Brian James Petersen	1994-311	3346
6449 7590 06/17/2010 ROTHWELL, FIGG, ERNST & MANBECK, P.C. 1425 K STREET, N.W. SUITE 800 WASHINGTON, DC 20005			EXAMINER RUDAWITZ, JOSHUA I	
			ART UNIT 3652	PAPER NUMBER
			NOTIFICATION DATE 06/17/2010	DELIVERY MODE 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):

PTO-PAT-Email@rfem.com

Interview Summary	Application No.	Applicant(s)	
	12/031,867	PETERSEN ET AL.	
	Examiner	Art Unit	
	JOSHUA I. RUDAWITZ	3652	

All participants (applicant, applicant's representative, PTO personnel):

(1) JOSHUA I. RUDAWITZ. (3) MATTHEW STEPHENS.

(2) BRIAN TOLLEFSON. (4) _____.

Date of Interview: 10 June 2010.

Type: a) ☐ Telephonic b) ☐ Video Conference
c) ☒ Personal [copy given to: 1) ☐ applicant 2) ☒ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____.

Claim(s) discussed: 1.

Identification of prior art discussed: Baskerville (US 5,888,044) and additional references found on the PTO-892.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: The rejections of the Non-Final Rejection were discussed and the applicant agreed that amendments to the claims would overcome the standing rejections. The examiner noted that further search and consideration would be required once newly amended claims were filed.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

/Joshua I Rudawitz/ Examiner, Art Unit 3652	
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Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 12/031,867
Applicant : Brian James Petersen, et al.
Filed : 02/15/2008
TC/A.U. : 3652
Examiner : Joshua I. Rudawitz

Docket No. : 1994-311
Customer No. : 06449
Confirmation No. : 3346

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

Sir:

AMENDMENT

In response to the Office Action mailed March 15, 2010, please amend the
above-identified application as follows:

Amendments to the **claims** begin on **page 2** of this paper

Remarks begin on **page 5** of this paper.

IN THE CLAIMS:

1. (Currently Amended) A seed or grain tender comprising:
 - a main hopper coupled with a frame via leg members, said main hopper having a discharge;
 - a base coupled with said frame, positioned under said main hopper;
 - a support arm rotatably coupled with said base at a first end of the support arm at a position at least partially below said discharge of said main hopper;
 - a conveyor having a conveyor tube portion, a conveyor hopper coupled to the tube portion at a first end, and a discharge coupled to the tube portion at a second end, ~~said conveyor being rotatably coupled with a second end of said support arm at an approximate center of gravity of said conveyor~~ of the tube portion ~~[[;]]~~, wherein said conveyor hopper includes sloped, inwardly facing walls for channeling seed or grain to said conveyor;
 - a conveyor coupling rotatably coupling said conveyor tube portion with a second end of said support arm such that said conveyor can rotate about at least one axis at said coupling;
 - a ~~latch~~ mechanism for detachably coupling said ~~first end of said conveyor with said first end of said support arm such that~~ at a position where said conveyor hopper is positioned below said main hopper discharge, and when said conveyor is decoupled from said position, said conveyor can be rotated about said axis of said conveyor

coupling to a position where the discharge of said conveyor is positioned over said main hopper; and

a locking mechanism including retaining members fixed to said base and engaging means for engaging with said retaining members for locking or unlocking said support arm to said base.

2. (Previously Presented) The seed tender as recited in claim 1, wherein said conveyor further includes an elevator for moving seed or grain from said conveyor hopper to said discharge, and a motor positioned in said discharge for driving said elevator.

3. (Previously Presented) The seed tender as recited in claim 1, wherein said conveyor is a motor driven belt, tube conveyor.

4. (Original) The seed tender as recited in claim 1, further comprising a hydraulic piston coupled with said base plate and with said support arm, for raising and lowering said support arm.

5. (Original) The seed tender as recited in claim 1, wherein said conveyor hopper is adjustable in size.

6-8. (Cancelled)

9. (Original) The seed tender as recited in claim 1, wherein the discharge of said main hopper is a gravity discharge.

10. (Original) The seed tender as recited in claim 1, wherein said main hopper includes side walls inwardly converging to said discharge.

11. (New) The seed tender as recited in claim 1, wherein said conveyor coupling includes a pivotable coupling with a substantially vertical axis.

REMARKS

The Office Action dated March 15, 2010, has been received and carefully reviewed. The preceding amendments and the following remarks form a full and complete response thereto. Claims 6-8 have been cancelled without prejudice. Claim 1 has been amended. Claim 11 is new. Support for these amendments may be found, inter alia, in Figs. 1-7 and 10, paragraphs [0027]-[0028] and [0033], and the original claims. Accordingly, claims 1-5 and 9-11 are pending in the application and are submitted for reconsideration.

Applicants' representatives would like to thank the Examiner for taking the time to conduct a personal interview, held at the U.S.P.T.O. on June 10, 2010. During the interview, the independent claim was discussed generally. Specifically, the addition of claim language relating to the support arm, the conveyor coupling, the conveyor hopper and the locking mechanism was discussed.

Claims 1-10 were rejected under 35 U.S.C. § 112, first paragraph, on the grounds that the disclosure is allegedly not enabling because the application fails to equate the locking mechanism to the lever mechanism. Applicants respectfully traverse.

With respect to 35, U.S.C. § 112, first paragraph, the standard for determining whether the specification meets the enablement requirement is whether one of ordinary skill in the art could make or use the invention from the disclosure in the patent coupled with information known in the art without undue experimentation. The disclosure states

that “the support arm 102 can be locked into a selected position of the base 401 by engaging a pin with one of a plurality of holes 407 distributed around the base 401. The pin is disengaged with a hole by actuating a lever mechanism 404, which lifts the pin out of a hole.” Specification, Paragraph [0032]. Claim 1 recites a locking mechanism including engaging mechanism (e.g., pin) and retaining members (e.g., holes or the like) for locking or unlocking the support arm to the base. One of ordinary skill in the art would readily be able, without undue experimentation, to make or use a locking mechanism including engaging mechanism and retaining members for locking or unlocking the support arm to the base, in view of the specification.

Accordingly, Applicants submit that claim 1, upon which claims 2-5 and 9-10 depend, satisfies the requirements of 35 U.S.C. § 112, first paragraph, and request that the rejection be withdrawn.

Claims 1-10 were rejected under 35 U.S.C. § 112, second paragraph, as failing to set forth the subject matter which Applicants regard as their invention because the claims allegedly fail to recite structure that the Applicants intend to impart to the mechanism. Applicants respectfully traverse the rejection.

A rejection for failure to set forth the subject matter which applicants regard as their invention is only appropriate where Applicants have represented to the USPTO, somewhere other than in the application as filed, that the invention is something different from what is defined by the claims. See MPEP 2172. Here, Applicants have not stated that the invention is something different from what is defined by the claims.

Claim 1 has been amended to recite “retaining members fixed to said base and engaging means for engaging with said retaining members for locking or unlocking said support arm to said base.” The specification expressly states that a lever mechanism “locks or unlocks the support arm to the base,” i.e., performs the function of a locking mechanism. See Specification, Paragraphs [0032]-[0033]. Thus the use of the term locking mechanism is not improper and the skilled person would understand that a locking mechanism was provided in the present specification. Applicants submit that claim 1, upon which claims 2-5 and 9-10 depend, satisfies the requirements of 35 U.S.C. § 112, second paragraph, and request that the rejection be withdrawn.

Claims 1-10 were rejected under 35 U.S.C. § 102(b) as being anticipated by Baskerville (U.S. Patent 5,888,044). Applicants respectfully traverse the rejection and submit that the cited prior art fails to disclose or suggest each and every element of claims 1-5 and 9-10.

Claim 1, upon which claims 2-5 and 9-10 depend, recites a seed or grain tender. The seed or grain tender includes a main hopper coupled with a frame via leg members. The main hopper includes a discharge. The seed or grain tender further includes a base coupled with said frame and positioned under said discharge of said main hopper, and a support arm rotatably coupled with the base at a first end of the support arm at a position at least partially below said discharge of said main hopper. The seed or grain tender also includes a conveyor having a conveyor tube portion, a conveyor hopper coupled to the tube portion at a first end, and a discharge coupled to the tube portion at

a second end of the tube portion. The conveyor hopper includes sloped, inwardly facing walls for channeling seed or grain to said conveyor. The seed or grain tender further includes a conveyor coupling rotatably coupling said conveyor tube portion with a second end of said support arm such that said conveyor can rotate about a substantially vertical axis at said coupling. The seed or grain tender also includes a mechanism for detachably coupling the conveyor at a position where said conveyor hopper is positioned below said main hopper discharge. When the conveyor is decoupled from the position under the main hopper discharge, the conveyor can be rotated about the axis of the conveyor coupling to a position where the discharge of the conveyor is positioned over the main hopper. The seed or grain tender further includes a locking mechanism.

Baskerville discloses a seed cart with a conveyor which is detachably coupled to the discharge of the main hopper at a position proximate to the bottom of the seed cart. Baskerville, Col. 1, ll. 9-12. "The conveyor can be removed from its connection to the seed cart, swiveled 180 degrees, and used to load seed into the seed cart." Baskerville, Col. 1, ll. 16-18. Baskerville discloses coupling the first end of a support arm to the side of the main hopper, and does not disclose coupling the first end of the support arm at a position at least partially below the discharge of the main hopper. Baskerville also fails to disclose or suggest a conveyor having its own conveyor hopper that would be, in one position (e.g., for unloading the main the hopper) below the main hopper discharge.. Baskerville discloses a conveyor that lacks a hopper to receive seed or grain, so it must

be coupled directly to a discharge in order to receive seed or grain. Further, Baskerville fails to disclose or suggest a locking mechanism for locking or unlocking the support arm to the base, as recited in claim 1. The support arm of Baskerville is coupled to the bin or main hopper and cannot be locked or unlocked. Accordingly, Applicants submit that the rejection is improper and request the rejection of claims 1-5 and 9-10 be withdrawn.

Applicants are unaware of any combination of prior art that suggests each and every feature of claim 1 of the present application. For example, U.S. Patent No. 7,393,275 discloses a foldable unloading auger but does not disclose a seed tender having the novel configuration of the present invention regarding the support arm and conveyor. U.S. Patent No. 7,500,817 discloses a seed tender having modular storage containers, wherein a conveyor is fixedly connected to the frame below the containers. This patent too fails to disclose a seed tender having the novel configuration of the present invention regarding the support arm and conveyor. U.S. Patent 5,529,455 discloses a conveyor having a hopper that can be coupled to the top of a seed drill for delivering seed to the seed drill when seeding a field. This patent fails to disclose a seed tender having the novel configuration of the present invention regarding the support arm and conveyor.

In view of the above, all objections and rejections have been sufficiently addressed. Applicants submit that the application is now in condition for allowance and request that claims 1-5 and 9-11 be allowed and this application passed to issue.

In the event that this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account No. 02-2135.

Respectfully submitted,

By: /Brian A. Tollefson/
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(202) 783-6031 (fax)

Electronic Acknowledgement Receipt	
EFS ID:	7812779
Application Number:	12031867
International Application Number:	
Confirmation Number:	3346
Title of Invention:	SEED CARRIER WITH PIVOTING CONVEYOR
First Named Inventor/Applicant Name:	Brian James Petersen
Customer Number:	06449
Filer:	Brian A. Tollefson/Carolyn Harty
Filer Authorized By:	Brian A. Tollefson
Attorney Docket Number:	1994-311
Receipt Date:	15-JUN-2010
Filing Date:	15-FEB-2008
Time Stamp:	11:13:45
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment		no			
File Listing:					
Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		amend.pdf	98003	yes	10
			d2e37d3dfa3c27c5d66524837eb87cad2743c23c		

	Multipart Description/PDF files in .zip description		
	Document Description	Start	End
	Amendment Copy Claims/Response to Suggested Claims	1	1
	Claims	2	4
	Applicant Arguments/Remarks Made in an Amendment	5	10
Warnings:			
Information:			
Total Files Size (in bytes):		98003	
This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503. <u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application. <u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course. <u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.			

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.

PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875					Application or Docket Number 12/031,867		Filing Date 02/15/2008		☐ To be Mailed			
APPLICATION AS FILED – PART I												
(Column 1)			(Column 2)			SMALL ENTITY ☐ OR		OTHER THAN SMALL ENTITY				
FOR		NUMBER FILED	NUMBER EXTRA		RATE (\$)	FEE (\$)		RATE (\$)	FEE (\$)			
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))		N/A	N/A		N/A			N/A				
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))		N/A	N/A		N/A			N/A				
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))		N/A	N/A		N/A			N/A				
TOTAL CLAIMS (37 CFR 1.16(i))		minus 20 =	*		X \$ =		OR	X \$ =				
INDEPENDENT CLAIMS (37 CFR 1.16(h))		minus 3 =	*		X \$ =			X \$ =				
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))		If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).										
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))												
* If the difference in column 1 is less than zero, enter "0" in column 2.												
APPLICATION AS AMENDED – PART II												
(Column 1)			(Column 2)			(Column 3)			SMALL ENTITY OR		OTHER THAN SMALL ENTITY	
AMENDMENT	06/15/2010	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)		RATE (\$)	ADDITIONAL FEE (\$)		
	Total (37 CFR 1.16(o))	* 8	Minus	** 20	= 0	X \$ =		OR	X \$52=	0		
	Independent (37 CFR 1.16(h))	* 1	Minus	***3	= 0	X \$ =		OR	X \$220=	0		
	☐ Application Size Fee (37 CFR 1.16(s))											
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))											
							TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE	0	
AMENDMENT		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)		RATE (\$)	ADDITIONAL FEE (\$)		
	Total (37 CFR 1.16(o))	*	Minus	**	=	X \$ =		OR	X \$ =			
	Independent (37 CFR 1.16(h))	*	Minus	***	=	X \$ =		OR	X \$ =			
	☐ Application Size Fee (37 CFR 1.16(s))											
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))											
							TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE		
* If the entry in column 1 is less than the entry in column 2, write "0" in column 3. ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20". *** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3". The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.												

Legal Instrument Examiner:
/FREDERICK E. BRISCOE/

This collection of information is required by 37 CFR 1.16. 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, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/031,867	02/15/2008	Brian James Petersen	1994-311	3346

6449	7590	03/15/2010
ROTHWELL, FIGG, ERNST & MANBECK, P.C.		
1425 K STREET, N.W.		
SUITE 800		
WASHINGTON, DC 20005		

EXAMINER	
RUDAWITZ, JOSHUA I	

ART UNIT	PAPER NUMBER
3652	

NOTIFICATION DATE	DELIVERY MODE
03/15/2010	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):

PTO-PAT-Email@rfem.com

Office Action Summary	Application No. 12/031,867	Applicant(s) PETERSEN ET AL.	
	Examiner JOSHUA I. RUDAWITZ	Art Unit 3652	
	-- 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 12/04/2009.

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) 1-10 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-10 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 15 February 2008 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) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1. This application has been reassigned to Examiner Rudawitz.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claim 1 recites the limitation "a locking mechanism for locking or unlocking said support arm to said base." However the specification is silent as to this terminology.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-10 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. The lever mechanism, which was noted in Applicant's Remarks, pg. 6 of 11, is critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). As the applicant has argued, the "locking mechanism" is equated with the "lever mechanism". However, the application as filed, fails to equate the locking mechanism to the lever mechanism, and this is considered to be a new disclosure. Nowhere in the specification is the lever mechanism defined to be "the locking mechanism". As such, the claims must be corrected to include the lever mechanism as detailed in the specification.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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.

6. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention. Evidence that claims 1-10 fail(s) to correspond in scope with that which applicant(s) regard as the invention can be found in the reply filed 12/04/2009. In that paper, applicant has stated "[t]he locking mechanism is shown as the lever mechanism in figure 5", and this statement indicates that the invention is different from what is defined in the claim(s) because the claims fail to state the structure that the applicant intends to impart to the mechanism, including "a pin" and holes of the base plate.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Baskerville (US 5,888,044).

Baskerville discloses a seed tender including a main hopper 20 coupled with a frame 2 via leg members 18, said main hopper having a discharge 25; a base 62/63 coupled with said frame, via intervening structure; a support arm 53 rotatably coupled with said base plate at a first end; a conveyor 31 having a conveyor hopper 33 at a first end and a discharge 66 at a second end, said

conveyor being rotatably coupled with a second end of said support arm at an approximate center of gravity of said conveyor, via connection 36; a latch mechanism 35 for detachably coupling said first end of said conveyor with said first end of said support arm, via intervening structure, such that said conveyor hopper is position positioned below said main hopper discharge, as shown in figure 1-3; and a locking mechanism 61 for locking or unlocking said support arm to said base plate; said conveyor further includes an elevator, in the form of a belt conveyor 31, for moving seed or grain from said conveyor hopper to said discharge, and a motor 58 positioned in said discharge for driving said elevator; conveyor is a motor driven belt tube conveyor, col 4, ll. 13; a hydraulic piston 64 coupled with said base plate and with said support arm, for raising and lowering said support arm; said conveyor hopper is adjustable in size, via attachment of 71& 73; said conveyor is rotatably coupled with said support arm such that said conveyor can rotate about a substantially vertical axis, see figure 3; said conveyor is rotatably coupled with said support arm such that said conveyor is rotatable about a vertical axis into a loading position in which said discharge is positioned over said main hopper, see figure 5; said conveyor is rotatably coupled with said support arm such that said conveyor is rotatable about a vertical axis into an unloading position in which said conveyor hopper is positioned under the discharge of said main hopper, as shown in figures 1-3; wherein the discharge of said main hopper is a gravity discharge; said main hopper includes side walls inwardly converging to said discharge.

Response to Arguments

9. Applicant's arguments, see REMARKS, filed 12/04/2009, with respect to the drawing objections and the rejections under 35 USC 112, 2nd paragraph, have been fully considered and are persuasive.

10. Applicant's arguments with respect to the prior art rejections of claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

11. With regards to the applicant's arguments concerning the specification objection concerning the claim limitation "locking mechanism", the examiner respectfully disagrees. As explained in the above rejection under 35 USC 112 1st paragraph, the applicant has newly equated two terms that were not disclosed to be equivalents in the originally filed disclosure. Therefore, the arguments presented are not persuasive.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA I. RUDAWITZ whose telephone number is (571)272-7856. The examiner can normally be reached on Monday - Friday, 7:30 A.M. - 5:00 P.M..

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.

Art Unit: 3652

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.

/J. I. R./
Examiner, Art Unit 3652

/Charles A. Fox/
Primary Examiner, Art Unit 3652

<i>Index of Claims</i> 	Application/Control No. 12031867	Applicant(s)/Patent Under Reexamination PETERSEN ET AL.
	Examiner JOSHUA I RUDAWITZ	Art Unit 3652

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

☐ Claims renumbered in the same order as presented by applicant				☐ CPA				☐ T.D.				☐ R.1.47			
CLAIM		DATE													
Final	Original	08/24/2009	03/10/2010												
	1	✓	✓												
	2	✓	✓												
	3	✓	✓												
	4	✓	✓												
	5	✓	✓												
	6	✓	✓												
	7	✓	✓												
	8	✓	✓												
	9	✓	✓												
	10	✓	✓												

Search Notes 	Application/Control No. 12031867	Applicant(s)/Patent Under Reexamination PETERSEN ET AL.
	Examiner JOSHUA I RUDAWITZ	Art Unit 3652

SEARCHED			
Class	Subclass	Date	Examiner
414	523	8/24/2009	SA

SEARCH NOTES		
Search Notes	Date	Examiner
Charles Fox	8/25/09	SA
Reviewed search	3/10/2010	JIR

INTERFERENCE SEARCH			
Class	Subclass	Date	Examiner

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 12/031,867
Applicant : Brian James Petersen, et al.
Filed : 02/15/2008
TC/A.U. : 3652
Examiner : Sumaia Alhadithi

Docket No. : 1994-311
Customer No. : 06449
Confirmation No. : 3346

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

Sir:

AMENDMENT

In response to the Office Action mailed September 4, 2008, please amend the above-identified application as follows:

Amendments to the **Specification** begin on **page 2** of this paper.

Amendments to the **Claims** begin on **page 3** of this paper.

Remarks begin on **page 6** of this paper.

Amendments to the Specification:

Please replace paragraph [0041] with the following replacement paragraph:

FIG. 10 is a side view of the hopper end of the conveyor 104. As shown, conveyor hopper 108 sits above in ingress ~~4003~~ to the conveyor 104. When coupled to the support arm 102, as shown, the conveyor hopper 108 is positioned below a discharge of the main hopper 106. The discharge 110 may be opened by conventional means. As showed, a wheel handle mechanism 1004 is provided for opening the discharge doors 1006.

IN THE CLAIMS:

1. (Currently Amended) A seed or grain tender comprising:
 - a main hopper coupled with a frame via leg members, said main hopper having a discharge;
 - a base ~~[[plate]]~~ coupled with said frame;
 - a support arm ~~rotatable~~ rotatably coupled with said base ~~plate~~ at a first end;
 - a conveyor having a conveyor hopper at a first end and a discharge at a second end, said conveyor being rotatably coupled with a second end of said support arm at an approximate center of gravity of said conveyor;
 - a latch mechanism for detachably coupling said first end of said conveyor with said first end of said support arm such that said conveyor hopper is ~~position~~ positioned below said main hopper discharge; and
 - a locking mechanism for locking or unlocking said support arm to said base ~~plate~~.

2. (Currently Amended) The seed tender as recited in claim 1, wherein said conveyor further includes an elevator for moving seed or grain from said conveyor hopper to said discharge, and a motor ~~position~~ positioned in said discharge for driving said elevator.

3. (Currently Amended) The seed tender as recited in claim 1, wherein said conveyor is a ~~[[belt]]~~ motor driven belt, tube conveyor.
4. (Original) The seed tender as recited in claim 1, further comprising a hydraulic piston coupled with said base plate and with said support arm, for raising and lowering said support arm.
5. (Original) The seed tender as recited in claim 1, wherein said conveyor hopper is adjustable in size.
6. (Original) The seed tender as recited in claim 1, wherein said conveyor is rotatably coupled with said support arm such that said conveyor can rotate about a substantially vertical axis.
7. (Original) The seed tender as recited in claim 1, wherein said conveyor is rotatably coupled with said support arm such that said conveyor is rotatable about a vertical axis into a loading position in which said discharge is positioned over said main hopper.
8. (Original) The seed tender as recited in claim 1, wherein said conveyor is rotatably coupled with said support arm such that said conveyor is rotatable about a

vertical axis into an unloading position in which said conveyor hopper is positioned under the discharge of said main hopper.

9. (Original) The seed tender as recited in claim 1, wherein the discharge of said main hopper is a gravity discharge.

10. (Original) The seed tender as recited in claim 1, wherein said main hopper includes side walls inwardly converging to said discharge.

REMARKS

The Office Action dated September 4, 2009, has been received and carefully reviewed. The preceding amendments and the following remarks form a full and complete response thereto. Paragraph [0041] has been amended. Claims 1-3 have been amended. Support for these amendments may be found, inter alia, in the original claims, paragraphs [0034]-[0035] and figures 4-5. No new matter has been added. Accordingly, claims 1-10 are pending in the application and are submitted for reconsideration.

An objection was made to the drawings under 37 C.F.R. § 1.83(a) on the grounds that certain elements were not shown therein. The Office Action asserted that the feature numbered “1003,” the support arm and the locking mechanism were not shown. The number “1003” has been deleted from the specification. Applicants submit that this objection is now moot. The support arm is shown in figures 1-4 as component 102. The locking mechanism is shown in figure 5. The locking mechanism is shown as the lever mechanism in figure 5. The lever mechanism includes a pin (component 509) capable of being engaged or disengaged with the holes (component 407) to lock or unlock the support arm to the base. See Fig. 5 and Paragraph [0035].

In view of the foregoing, Applicants submit that the objections are improper. Accordingly, Applicants request that the objections be withdrawn.

Objections were made to the specification under 37 C.F.R. 1.75(d)(1) because the specification did not provide proper antecedent basis for the claim language “base

plate,” “locking mechanism,” “conveyor hopper is adjustable in size” and “belt driven conveyor. Applicants submit that the current claim language now satisfies 37 C.F.R. 1.75(d)(1) and they request that the objection be withdrawn.

The term “base plate” has been amended to “base.” The term base is supported in paragraphs [0034]-[0035] of the specification.

A person of ordinary skill in the art would understand the term “locking mechanism” to refer to the “lever mechanism” (component 404). Paragraph [0035] discloses that the lever mechanism is for locking and unlocking the support arm to the base.

Claim 5 recites that the “conveyor hopper is adjustable in size.” 37 C.F.R. 175(d)(1) merely requires that “the meaning of the claims must be ascertainable by reference to the description.” The conveyor hopper is disclosed in paragraphs [0030], [0032] and [0041]-[0042] and figures 1, 3, 6-7 and 10. The meaning of the phrase the “conveyor hopper is adjustable in size” is ascertainable upon referencing the description to determine what component is the conveyor hopper.

The term “belt driven conveyor” has been amended to “motor driven belt, tube conveyor.” This is supported by paragraphs [0037]-[0039].

In view of the foregoing, Applicants submit that the objections are improper. Accordingly, Applicants request that the objections be withdrawn.

Objections were made to the claims because of informalities in claims 1 and 2. In particular, the terms “rotatable” and “position” were objected to in claim 1. The

Examiner kindly suggested that these terms be amended to “rotatably” and “positioned.” The terms have been amended according to the Examiner’s suggestion. The term “position” was objected to in claim 2. Claim 2 has been amended to recite “positioned.” Accordingly, Applicants submit that the objections are now moot and request that the objections be withdrawn.

Claims 1-10 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

With respect to claim 1, upon which claims 2-10 depend, the Office Action asserts that the terms “a base plate” and a “locking mechanism” has insufficient antecedent basis. The term “a base plate” has been amended to recite “a base.” As discussed above, supra, the term “locking mechanism” is supported by the specification. Accordingly, Applicants submit that claim 1 satisfies the requirements of 35 U.S.C. § 112, second paragraph, and request that the rejection be withdrawn.

With respect to claim 5, the Office Action states that the claim is indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office Action does not state which terms are unclear, however, as discussed above, supra, the limitation “conveyor hopper is adjustable in size” is supported by the specification and the meaning is clear. Accordingly, Applicants submit that claim 5 satisfies the requirements of 35 U.S.C. § 112, second paragraph, and request that the rejection be withdrawn.

With respect to claim 7, the Office Action states limitation “belt driven” is unclear because the belt is not a power source. The claim has been amended to recite “motor driven belt, tube conveyor.” Accordingly, Applicants submit that claim 7 satisfies the requirements of 35 U.S.C. § 112, second paragraph, and request that the rejection be withdrawn.

In view of the foregoing, Applicants respectfully submit that claims 1-10 satisfy the requirements of 35 U.S.C. § 112, second paragraph. Accordingly, Applicants request that the rejection be withdrawn.

Claims 1-10 were rejected under 35 U.S.C. §103(a) as being unpatentable over Klatt (U.S. Patent No. 5,484,249) in view of Adam (U.S. Patent No. 6,120,233). Applicants respectfully traverse the rejection and submit that the cited prior art fails to disclose or suggest each and every feature of claims 1-10.

Claim 1, upon which claims 2-10 depend, recites a seed or grain tender. The seed or grain tender includes a main hopper coupled with a frame via leg members. The main hopper includes a discharge. The seed or grain tender further includes a base coupled with the frame and a support arm rotatably coupled with the base at a first end. The seed or grain tender also includes a conveyor with a conveyor hopper at a first end and a discharge at a second end. The conveyor is rotatably coupled to a second end of the support arm at an approximate center of gravity of the conveyor. The seed or grain tender further includes a latch mechanism for detachably coupling the first end of the conveyor with the first end of the support arm such that the conveyor hopper

is positioned below the main hopper discharge. The seed or grain tender also includes a locking mechanism for locking or unlocking the support arm to the base.

Klatt discloses a grain seed loader with an elevator configured to fill the seed box or boxes of a grain seeder or other distribution device. Klatt, Abstract. The seed box is mounted on a frame above a set of colters. Klatt, Col. 1, ll. 61-62. The seed from the seed box falls into a seed bed prepared by the colters. Klatt, Col. 1, ll. 62-64.

In contrast to the claimed invention, Klatt fails to disclose a latch mechanism for detachably coupling the first end of the conveyor with the first end of the support arm such that the conveyor hopper is positioned below the main hopper discharge, as recited in claim 1. Klatt fails to disclose a latch mechanism to couple the conveyor with the support arm. Also, it is physically impossible for the conveyor hopper in Klatt to be placed below the main hopper because colters are directly below the main hopper. See Fig. 1 and Col. 1, ll. 61-62. Further, Klatt fails to disclose a locking mechanism for locking or unlocking the support arm to the base, as recited in claim 1. Klatt discloses a support arm that cannot be unlocked from the base.

Adam fails to remedy the above-identified deficiencies. Adam discloses a bulk seed carrier adapted to transport and dispense the contents of a plurality of bulk seed bags. Abstract. Adam discloses a discharge auger or conveyor with a flexible joint that allows for a telescoping spout to be moved to any desired position. See Fig. 1 and Col. 4, ll. 14-26. The conveyor is coupled to a rotatable arm at a pivot point. See Fig. 1 and Col 4, ll. 32-45. In Adam, the conveyor can not be detachably coupled to the rotatable

arm via a latch mechanism. Adam fails to disclose a latch mechanism for detachably coupling the first end of the conveyor with the first end of the support arm such that the conveyor hopper is positioned below the main hopper discharge and a locking mechanism for locking or unlocking the support arm to the base, as recited in claim 1.

Thus, the combination of Klott and Adam fails to disclose or suggest each and every element of claim 1, upon which claims 2-10 depend. Accordingly, Applicants submit that the rejection is improper and request the rejection of claim 1-10 be withdrawn.

In view of the above, all objections and rejections have been sufficiently addressed. Applicants submit that the application is now in condition for allowance and request that claims 1-10 be allowed and this application passed to issue.

In the event that this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account No. 02-2135.

Respectfully submitted,

By: /Brian A. Tollefson/
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(202) 783-6031 (fax)

Electronic Acknowledgement Receipt	
EFS ID:	6572167
Application Number:	12031867
International Application Number:	
Confirmation Number:	3346
Title of Invention:	SEED CARRIER WITH PIVOTING CONVEYOR
First Named Inventor/Applicant Name:	Brian James Petersen
Customer Number:	06449
Filer:	Martin M. Zoltick/Carolyn Harty
Filer Authorized By:	Martin M. Zoltick
Attorney Docket Number:	1994-311
Receipt Date:	04-DEC-2009
Filing Date:	15-FEB-2008
Time Stamp:	12:21:46
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment		no			
File Listing:					
Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		Amdt.pdf	89940	yes	11
			8725cd8701082e85aa70ce400f56f8eae2094b25		

	Multipart Description/PDF files in .zip description		
	Document Description	Start	End
	Amendment Copy Claims/Response to Suggested Claims	1	1
	Specification	2	2
	Claims	3	5
	Applicant Arguments/Remarks Made in an Amendment	6	11
Warnings:			
Information:			
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PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875					Application or Docket Number 12/031,867		Filing Date 02/15/2008		☐ To be Mailed			
APPLICATION AS FILED – PART I												
(Column 1)			(Column 2)			SMALL ENTITY ☐ OR		OTHER THAN SMALL ENTITY				
FOR		NUMBER FILED	NUMBER EXTRA		RATE (\$)	FEE (\$)		RATE (\$)	FEE (\$)			
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))		N/A	N/A		N/A			N/A				
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))		N/A	N/A		N/A			N/A				
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))		N/A	N/A		N/A			N/A				
TOTAL CLAIMS (37 CFR 1.16(i))		minus 20 =	*		X \$ =		OR	X \$ =				
INDEPENDENT CLAIMS (37 CFR 1.16(h))		minus 3 =	*		X \$ =			X \$ =				
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))		If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).										
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))												
* If the difference in column 1 is less than zero, enter "0" in column 2.												
APPLICATION AS AMENDED – PART II												
(Column 1)			(Column 2)			(Column 3)			SMALL ENTITY OR		OTHER THAN SMALL ENTITY	
AMENDMENT	12/04/2009	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)		RATE (\$)	ADDITIONAL FEE (\$)		
	Total (37 CFR 1.16(o))	* 10	Minus	** 20	= 0	X \$ =		OR	X \$52=	0		
	Independent (37 CFR 1.16(h))	* 1	Minus	***3	= 0	X \$ =		OR	X \$220=	0		
	☐ Application Size Fee (37 CFR 1.16(s))											
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))											
							TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE	0	
AMENDMENT		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)		RATE (\$)	ADDITIONAL FEE (\$)		
	Total (37 CFR 1.16(o))	*	Minus	**	=	X \$ =		OR	X \$ =			
	Independent (37 CFR 1.16(h))	*	Minus	***	=	X \$ =		OR	X \$ =			
	☐ Application Size Fee (37 CFR 1.16(s))											
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))											
							TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE		
* If the entry in column 1 is less than the entry in column 2, write "0" in column 3. ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20". *** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3". The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.												

Legal Instrument Examiner:
/WANDA D. MITCHELL/

This collection of information is required by 37 CFR 1.16. 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, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/031,867	02/15/2008	Brian James Petersen	1994-311	3346
6449 7590 09/04/2009 ROTHWELL, FIGG, ERNST & MANBECK, P.C. 1425 K STREET, N.W. SUITE 800 WASHINGTON, DC 20005			EXAMINER ALHADITHI, SUMAIA	
			ART UNIT 3652	PAPER NUMBER
			NOTIFICATION DATE 09/04/2009	DELIVERY MODE 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):

PTO-PAT-Email@rfem.com

Office Action Summary	Application No.	Applicant(s)	
	12/031,867	PETERSEN ET AL.	
	Examiner	Art Unit	
	SUMAIA ALHADITHI	3652	

-- 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 15 February 2008.

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) 1-10 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-10 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 15 February 2008 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) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____. 5) ☐ Notice of Informal Patent Application 6) ☐ Other: _____.
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DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show item # 1003, support arm and locking mechanism as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: “Base plate and locking mechanism “are not in the specification”.
3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The limitation “conveyor hopper is adjustable in size” can not be found in the specification.
4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the limitation “belt driven conveyor” is not an accurate statement, the belt is not a power source.

Claim Objections

5. Claim 1 is objected to because of the following informalities: In line 5, “rotatable” should be changed to –rotatably–. And in line 10, “position below” should be changed to –positioned below–. Appropriate correction is required.

Claim 2 is objected to because of the following informalities: In line 3, “position” should be changed to –positions–. Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

Art Unit: 3652

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.

7. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
8. Claim 1 recites the limitation "a base plate and" a "locking mechanism". There is insufficient antecedent basis for these limitations in the claim.
9. Claim 5 is rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
10. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitation "belt driven", the belt is not a power source.

Claim Rejections - 35 USC § 103

11. 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.

12. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klatt (US Patent No.5, 484,249) in view of Adam (US Patent No. 6,120,233).

In reference to claim 1, Klatt teaches a grain seeder loader comprising: a main hopper (11 fig. 1) coupled with a frame (12 fig. 1) via leg members (the base of the hopper), said main hopper having a discharge (13 fig. 1), a base plate (35 fig. 1) coupled with said frame, a support arm (15 fig. 1) rotatably coupled with said base plate at a first end,

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a conveyor (23 fig. 1) having a conveyor hopper (21 fig. 1) at a first end and a discharge (30 fig. 1) at a second end, said conveyor being rotatably coupled with a second end of said support arm at an approximate center of gravity of said conveyor (36 fig. 1).

Klatt discloses the claimed invention except for the locking mechanism. Adam teaches a locking mechanism (col. 4, lines 45-61) for locking or unlocking of two members. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the locking mechanism taught by Adam, since such modification would give more stability by using a locking mechanism between the support arm and the base plate.

Klatt teaches a latch mechanism (20 fig. 1) such that said conveyor hopper is position below said main hopper discharge except for a latch mechanism for detachably coupling said first end of said conveyor with said first end of said support arm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to detachbly couple said first end of said conveyor with said first end of said support arm by the connection member (20), since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70

In reference to claim 2, Klatt teaches a grain seeder loader wherein said conveyor (23 fig. 1) further includes an elevator for moving seed or grain from said conveyor hopper to said discharge, and a motor (33 fig. 1) positioned in said discharge for driving said elevator.

In reference to claim 4, Klatt teaches a grain seeder loader comprising a hydraulic piston (17 fig. 1) coupled with said base plate and with said support arm, for raising and lowering said support arm.

Claim 5 is rejected under 35 U.S.C. § 103 (a) as being unpatentable over Klatt.

Klatt discloses the claimed invention. However, Klatt does not expressly disclose an adjustable size conveyor hopper.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to use an adjustable size conveyor hopper because Applicant has not disclosed that an adjustable size conveyor hopper provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with a any size hopper conveyor.

Therefore, it would have been an obvious matter of design choice to modify Klatt's conveyor hopper to obtain the invention as specified in the claim [(s)].

In reference to claim 6, Klatt teaches a grain seeder loader system wherein said conveyor is rotatably coupled with said support arm such that said conveyor can rotate about a substantially vertical axis (col. 2, lines 63-67).

In reference to claim 7, Klatt teaches a grain seeder loader wherein said conveyor (23 fig. 1) is rotatably coupled with said support arm (15 fig. 1) such that said conveyor is

rotatable about a vertical axis into a loading position in which said discharge is positioned over said main hopper.

In reference to claim 8, Klatt teaches a grain seeder loader wherein said conveyor is rotatably coupled with said support arm such that said conveyor is rotatable about a vertical axis into an unloading position in which said conveyor hopper is positioned under the discharge of said main hopper.

In reference to claim 9, Klatt teaches a grain seeder loader wherein the discharge of said main hopper is a gravity discharge (col. 1, lines 61-65).

In reference to claim 10, Klatt teaches a grain seeder loader wherein said main hopper (the combination of the main hopper 11 and the chutes) includes side walls inwardly converging to said discharge (col. 1, lines 61-65).

Claim 3 is rejected under 35 U.S.C. § 103 (a) as being unpatentable over Klatt and Adam as applied to claim 1, and further in view of Baserville (US Patent No. 5,888,044).

In reference to claim 3, both Klatt and Adam have been discussed above. However, both Klatt and Adam don't expressly teach a belt driven conveyor. Baskerville teaches a cart with loading and unloading conveyor system wherein said conveyor is a belt driven tube conveyor (col. 1, line5). It would have obvious to one having ordinary skill

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in the art at the time the invention was made to use a belt driven tube conveyor with Klatts and Adams conveyors since using a belt driven conveyor is common in the field of conveying bulk materials.

Conclusion

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

14. US Patent No. 7,500,817 discloses an agricultural seed tender with modular storage containers, US Patent No. 5,529,455 discloses a mounting assembly is provided for a device for transporting seed from a hopper, US Patent No. 7,393,275 discloses a Grain bin outer unloading conveyor section separation and catch basin and US Patent No. 5,888,044 discloses a Seed cart with loading/unloading conveyor system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUMAIA ALHADITHI whose telephone number is (571)270-1141. The examiner can normally be reached on Monday-Thursday/7:30AM_5:00PM est. time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodriguez Saul 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.

/Saúl J. Rodríguez/
Supervisory Patent Examiner, Art
Unit 3652

/S. A./
Examiner, Art Unit 3652

Notice of References Cited	Application/Control No. 12/031,867		Applicant(s)/Patent Under Reexamination PETERSEN ET AL.	
	Examiner SUMAIA ALHADITHI		Art Unit 3652	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-7,500,817	03-2009	Furrer et al.	414/522
*	B	US-5,529,455	06-1996	Kaster et al.	414/523
*	C	US-7,393,275	07-2008	Voss et al.	460/114
*	D	US-5,888,044	03-1999	Baskerville, Gregory Eugene	414/523
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	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.



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BIB DATA SHEET

CONFIRMATION NO. 3346

SERIAL NUMBER 12/031,867	FILING or 371(c) DATE 02/15/2008 RULE	CLASS 111	GROUP ART UNIT 3652	ATTORNEY DOCKET NO. 1994-311		
APPLICANTS Brian James Petersen, Ottawa, OH; David Richard SMITH, Fort Jennings, OH; ** CONTINUING DATA ***** This appln claims benefit of 60/901,321 02/15/2007 ** FOREIGN APPLICATIONS ***** ** IF REQUIRED, FOREIGN FILING LICENSE GRANTED ** 02/27/2008						
Foreign Priority claimed ☐ Yes ☒ No 35 USC 119(a-d) conditions met ☐ Yes ☒ No Verified and /SUMAIA ALHADITHI/ Acknowledged Examiner's Signature		☐ Met after Allowance SA Initials	STATE OR COUNTRY OH	SHEETS DRAWINGS 11	TOTAL CLAIMS 10	INDEPENDENT CLAIMS 1
ADDRESS ROTHWELL, FIGG, ERNST & MANBECK, P.C. 1425 K STREET, N.W. SUITE 800 WASHINGTON, DC 20005 UNITED STATES						
TITLE SEED CARRIER WITH PIVOTING CONVEYOR						
FILING FEE RECEIVED 1160	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:		☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit			

<i>Index of Claims</i> 	Application/Control No. 12031867	Applicant(s)/Patent Under Reexamination PETERSEN ET AL.
	Examiner SUMAIA ALHADITHI	Art Unit 3652

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47										
CLAIM		DATE								
Final	Original	08/24/2009								
	1	✓								
	2	✓								
	3	✓								
	4	✓								
	5	✓								
	6	✓								
	7	✓								
	8	✓								
	9	✓								
	10	✓								

Search Notes 	Application/Control No. 12031867	Applicant(s)/Patent Under Reexamination PETERSEN ET AL.
	Examiner SUMAIA ALHADITHI	Art Unit 3652

SEARCHED			
Class	Subclass	Date	Examiner
414	523	8/24/2009	SA

SEARCH NOTES		
Search Notes	Date	Examiner
Charles Fox	8/25/09	SA

INTERFERENCE SEARCH			
Class	Subclass	Date	Examiner

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EAST Search History**EAST Search History (Prior Art)**

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	3	414/523 and seed and conveyor and hopper and elevator and conventional	USPAT	OR	OFF	2009/08/26 07:22
L2	3	auger adj conventional and conveyor and bulk	USPAT	OR	OFF	2009/08/26 07:45
L3	2	auger adj conventional and conveyor and bulk and belt	USPAT	OR	OFF	2009/08/26 07:46
L6	3	414/523 and seed and conveyor and hopper and elevator and conventional and auger	USPAT	OR	OFF	2009/08/26 07:52
L7	1	auger adj belt and bulk and tube	USPAT	OR	OFF	2009/08/26 07:55
L8	1	("5888044").PN.	USPAT; USOCR	OR	OFF	2009/08/26 07:57
S1	26	((BRIAN) near2 (PETERSEN)).INV.	USPAT; USOCR	OR	OFF	2009/08/24 07:46
S2	1805	((DAVID) near2 (SMITH)).INV.	USPAT; USOCR	OR	OFF	2009/08/24 07:47
S3	377	414/523	USPAT	OR	OFF	2009/08/24 08:25
S4	6	414/523 and seed and conveyor and hopper and elevator	USPAT	OR	OFF	2009/08/24 08:38

S5	45	("0582598" "0734292" "1148674" "1663161" "1899931" "2042014" "2115199" "2319588" "2751097" "2765936" "3439819" "3841243").PN. OR ("4286530").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2009/08/24 08:39
S6	16	("1735920" "3307679" "3767031" "3863783" "3904024" "4082181" "4119223" "4312621").PN. OR ("5529455").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2009/08/24 08:47
S7	11	("2659608" "2746621" "4119223" "4312621" "4390094" "4669945" "5009254").PN. OR ("5582221").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2009/08/24 09:04
S10	501	"414"/\$ and seed or grain and tender and base and conveyor and latch and hopper	USPAT	OR	OFF	2009/08/24 09:24
S11	22	("3498483" "3863783" "4119223" "4411581" "4433946" "4541767" "4742938" "5104613" "5108249" "5257893" "5484249" "5520495").PN. OR ("5888044").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2009/08/24 15:16

S12	14	414/523 and locking and hopper and auger	USPAT	OR	OFF	2009/08/25 12:11
S13	1	("5484249").PN.	USPAT; USOCR	OR	OFF	2009/08/25 12:23
S14	56	414/516	USPAT	OR	OFF	2009/08/25 12:44
S15	32	414/523 and hopper and belt and cylinder	USPAT	OR	OFF	2009/08/25 12:50
S16	1	("5,013,208").PN.	USPAT; USOCR	OR	OFF	2009/08/25 13:51
S17	58	("2296014" "2481860" "2772767" "3021025" "3265253" "3273734" "3337068" "3477599" "3561681" "3575306" "3638816" "3664525" "3825138" "4092004" "4095705" "4274790" "4415303" "4427105" "4646942" "4662812" "4669945" "4781513" "4846621" "4874283" "4923358" "4963066" "5013208" "5100281" "5305866" "5316431").PN. OR ("5409344").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2009/08/25 13:52
S18	1	("6120233").PN.	USPAT; USOCR	OR	OFF	2009/08/25 15:42

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/031,867	02/15/2008	Brian James Petersen	1994-311

CONFIRMATION NO. 3346

6449

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

PUBLICATION NOTICE



Title:SEED CARRIER WITH PIVOTING CONVEYOR

Publication No.US-2008-0210145-A1

Publication Date:09/04/2008

NOTICE OF PUBLICATION OF APPLICATION

The above-identified application will be electronically published as a patent application publication pursuant to 37 CFR 1.211, et seq. The patent application publication number and publication date are set forth above.

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
12/031,867	02/15/2008	3641	1160	1994-311	10	1

CONFIRMATION NO. 3346

6449

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

UPDATED FILING RECEIPT



OC000000030164490

Date Mailed: 05/30/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Brian James Petersen, Ottawa, OH;
David Richard SMITH, Fort Jennings, OH;

Assignment For Published Patent Application

UNVERFERTH MANUFACTURING COMPANY INC., Kalida, OH

Power of Attorney: The patent practitioners associated with Customer Number 06449

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/901,321 02/15/2007

Foreign Applications

If Required, Foreign Filing License Granted: 02/27/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/031,867**

Projected Publication Date: 09/04/2008

Non-Publication Request: No

Early Publication Request: No

Title

SEED CARRIER WITH PIVOTING CONVEYOR

Preliminary Class

111

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NOT GRANTED

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 12/031,867
Applicant : David Richard SMITH et al.
Filed : 02/15/2008
TC/A.U. : 3641
Examiner : N/A

Docket No. : 1994-311
Customer No. : 06449
Confirmation No. : 3346

Mail Stop: Missing Parts
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Alexandria, Virginia 22313-1450

RESPONSE TO NOTICE TO FILE MISSING PARTS

In response to the Notice to File Missing Parts mailed March 3, 2008, the items checked below are attached in the order listed:

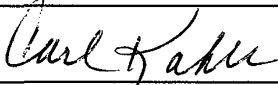
	Fee transmittal itemizing payment of the fees enumerated thereon. If any additional payment is required, please charge such to Deposit Account No. 02-2135. An extra copy of the fee transmittal form is also attached for that purpose.
	A response copy of the Notice to File Missing Parts
X	A declaration/executed by the inventor(s)
X	Power of Attorney executed by assignee with copy of executed Assignment

Remarks:

X Customer Number or Bar Code Label 6449					
<i>Name</i>	Brian A. Tollefson, Reg. No. 46,338				
<i>Signature</i>	/Brian A. Tollefson/			<i>Date</i>	May 21 2008
<i>Address</i>	Rothwell, Figg, Ernst & Manbeck Suite 800, 1425 K Street, N.W.				
<i>City</i>	Washington	<i>State</i>	D.C.	<i>Zip Code</i>	20005
<i>Country</i>	U.S.A.	<i>Telephone</i>	202-783-6040	<i>Fax</i>	202-783-6031

DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION USING AN APPLICATION DATA SHEET (37 CFR 1.76)			
Title of Invention	SEED CARRIER WITH PIVOTING CONVEYOR		
As the below named inventor(s), I/we declare that: This declaration is directed to U.S. Application No. 12/031,867, filed on February 15, 2008 As amended on _____ (if applicable), I/we believe that I/we am/are the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought; I/we have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment specifically referred to above; I/we acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me/us to be material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT International filing date of the continuation-in-part application. All statements made herein of my own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.			
FULL NAME OF INVENTOR(S)			
Inventor One:	Brian James PETERSON	Citizen of	USA
Signature	<i>Brian James Peterson</i>	Date	5-5-08
Inventor Two:	David Richard SMITH	Citizen of	USA
Signature	<i>David Richard Smith</i>	Date	5-5-08
Inventor Three:		Citizen of	
Signature		Date	
Inventor Four:		Citizen of	
Signature		Date	
Inventor Five:		Citizen of	
Signature		Date	
Inventor Six:		Citizen of	
Signature		Date	

Additional inventors or a legal representative are being named on additional form(s) attached hereto Yes ___ No X
1479133

POWER OF ATTORNEY and CORRESPONDENCE ADDRESS INDICATION FORM	Application Number	12/031,867
	Filing Date	February 15, 2008
	First Named Inventor	David R. SMITH et al.
	Art Unit	3641
	Examiner Name	
	Attorney Docket Number	1994-311
	Title	CONVEYOR LOADING/UNLOADING SYSTEM
The below-named Assignee of record of the entire interest in the subject application, through its authorized representative identified below, hereby revokes all previous powers of attorney given in the above-identified application and hereby appoints the practitioners associated with the Customer Number 06449 as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.		
<i>Statement under 37 CFR 3.73(b)</i> The below-named Assignee is the assignee of the entire right, title, and interest in the patent application/patent identified above by virtue of an assignment from the inventor(s) of the patent application/patent identified above, recorded in the United States patent and Trademark Office at Reel/Frame _____ / _____, or for which a copy thereof is attached and was, or currently is being, submitted for recordation pursuant to 37 CFR 3.11.		
ACKNOWLEDGEMENT AND CONSENT BY ASSIGNEE TO OBTAIN INSTRUCTIONS FROM ANOTHER PARTY Assignee, through its undersigned authorized representative, hereby acknowledges that the practitioners appointed herein may obtain instructions as to any action to be taken in the U.S. Patent and Trademark Office on any application to which this power of attorney may be directed, or on any patent which may issue on any such application, from assignee's third-party agents or attorneys, or other designee, who have been authorized by assignee to convey such instructions, and assignee expressly consents to this arrangement. In the event of a change in the persons from whom instructions are to be taken, the practitioners appointed herein shall be so notified by the assignee.		
	UNVERFERTH MANUFACTURING COMPANY, INC.	
Signature of Authorized Representative		
Typed or Printed Name	CARL KAHLE	
Typed or Printed Title	SEC.	

**ASSIGNMENT BY INVENTOR(S) OF PATENT APPLICATION
FOR THE UNITED STATES OF AMERICA**

IN CONSIDERATION of good and valuable consideration paid to the undersigned inventor(s) (hereinafter ASSIGNOR(S))
by

Name: Unverferth Manufacturing Company Inc.
Address: 18107 US 224 West, Kalida, OH 45853

(hereinafter ASSIGNEE), the receipt and adequacy of which is hereby acknowledged, ASSIGNOR(S) hereby sell(s), assign(s) and transfer(s) to ASSIGNEE all of his/her right, title and interest in, to and under the invention and application entitled: **SEED CARRIER WITH PIVOTING CONVEYOR** for which application for Letters Patent of the United States ASSIGNOR(S) is/are the sole or a joint inventor and which application is identified herein and/or is further identified as follows

U.S. Serial No.: 12/031,867, Filing Date: February 15, 2008

(Rothwell, Figg, Ernst & Manbeck is hereby authorized to insert the series code, serial or application number and/or filing date hereon, when known)

and all Letters Patent of the United States to be obtained on said application or any continuation, division, renewal, substitute, reissue or reexamination thereof for the full term or terms for which the same may be granted, including all rights to recover damages for any and all past infringement; and

ASSIGNOR(S) agree(s) to execute all papers necessary in connection with said application and any continuing, divisional, reissue or reexamination applications thereof and to execute separate assignments in connection with such applications as ASSIGNEE may deem necessary.

ASSIGNOR(S) agree(s) to execute all papers necessary in connection with any interference, litigation, or other legal proceeding which may be declared concerning this application or any continuation, division, reissue, reexamination or extension thereof or Letters Patent, reissue patent or reexamination certificate issued thereon, and all rights connected therewith, and to cooperate with ASSIGNEE in every way possible in obtaining and producing evidence and proceeding with such interference, litigation, or other legal proceeding.

ASSIGNOR(S) covenant(s) that he/she has the full right to convey the entire interest herein assigned and has not executed, and will not execute, any agreement in conflict herewith.

ASSIGNOR(S) acknowledge(s) that ASSIGNEE may appoint any attorney or practitioner of ASSIGNEE's choice to prosecute any application or other legal proceeding involving said invention and ASSIGNOR(S) further acknowledge(s) that any attorney or practitioner so appointed by ASSIGNEE does not represent ASSIGNOR(S) and that such appointment by ASSIGNEE does not create any attorney-client relationship between ASSIGNOR(S) and any attorney or practitioner appointed by ASSIGNEE.

IN WITNESS WHEREOF, the undersigned ASSIGNOR(S) has/ have affixed his/her signature below.

Signature: Brian Jones Petersen Date: 5-5-08
Typed Name: Brian James PETERSON

Signature: David Richard Smith Date: 5-5-08
Typed Name: David Richard SMITH

Signature: _____ Date: _____

WITNESSES: (optional)

Signature: _____ Date: _____
Typed Name: _____

Signature: _____ Date: _____
Typed Name: _____

NO LEGALIZATION REQUIRED. THIS DOCUMENT MAY BE NOTARIZED IF DESIRED FOR FURTHER PROOF OF EXECUTION.
1479129

Electronic Patent Application Fee Transmittal				
Application Number:		12031867		
Filing Date:		15-Feb-2008		
Title of Invention:		SEED CARRIER WITH PIVOTING CONVEYOR		
First Named Inventor/Applicant Name:		David Richard SMITH		
Filer:		Brian A. Tollefson/Jeannie Saxton		
Attorney Docket Number:		1994-311		
Filed as Large Entity				
Utility Filing Fees				
Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
Utility application filing	1011	1	310	310
Utility Search Fee	1111	1	510	510
Utility Examination Fee	1311	1	210	210
Pages:				
Claims:				
Miscellaneous-Filing:				
Late filing fee for oath or declaration	1051	1	130	130
Petition:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				
Extension - 1 month with \$0 paid	1251	1	120	120
Miscellaneous:				
Total in USD (\$)				1280

Electronic Acknowledgement Receipt	
EFS ID:	3334014
Application Number:	12031867
International Application Number:	
Confirmation Number:	3346
Title of Invention:	SEED CARRIER WITH PIVOTING CONVEYOR
First Named Inventor/Applicant Name:	David Richard SMITH
Customer Number:	6449
Filer:	Brian A. Tollefson/Jeannie Saxton
Filer Authorized By:	Brian A. Tollefson
Attorney Docket Number:	1994-311
Receipt Date:	21-MAY-2008
Filing Date:	15-FEB-2008
Time Stamp:	11:46:46
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	\$ 1280
RAM confirmation Number	6650
Deposit Account	022135
Authorized User	
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows: Charge any Additional Fees required under 37 C.F.R. Section 1.21 (Miscellaneous fees and charges)	

File Listing:					
Document Number	Document Description	File Name	File Size(Bytes) /Message Digest	Multi Part /.zip	Pages (if appl.)
1	Applicant Response to Pre-Exam Formalities Notice	1994-311_Response_Missing_Parts.pdf	18503	no	2
			47bc8f601553f2ad7057d195e7ed79c064abadfe		
Warnings:					
Information:					
2	Oath or Declaration filed	1994-311_declaration.pdf	59355	no	1
			0b3cb87dfcfc10c652a3a1cbae0c3e3568df007f1		
Warnings:					
Information:					
3	Power of Attorney	1994-311_power_of_attorney.pdf	62124	no	1
			bd711d278d4f67e9f0d00260fc10a6901f6a720c		
Warnings:					
Information:					
4	Assignee showing of ownership per 37 CFR 3.73(b).	1994-311_assignment.pdf	79152	no	1
			df2083f8df37b5c87110320ba71ceddd062ea15e		
Warnings:					
Information:					
5	Fee Worksheet (PTO-06)	fee-info.pdf	8673	no	2
			ca0ba4f1140d16decc0697b1dc37e8ebdbb75d29		
Warnings:					
Information:					
Total Files Size (in bytes):			227807		
This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503. New Applications Under 35 U.S.C. 111 If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application. National Stage of an International Application under 35 U.S.C. 371 If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course. New International Application Filed with the USPTO as a Receiving Office If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.					



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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/031,867	02/15/2008	David Richard SMITH	1994-311

CONFIRMATION NO. 3346

FORMALITIES LETTER

6449

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005



OC000000028529193

Date Mailed: 03/03/2008

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
Applicant must submit \$310 to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).
- The oath or declaration is missing.
A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
Note: If a petition under 37 CFR 1.47 is being filed, an oath or declaration in compliance with 37 CFR 1.63 signed by all available joint inventors, or if no inventor is available by a party with sufficient proprietary interest, is required.

The applicant needs to satisfy supplemental fees problems indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.16(f) of \$130 for a non-small entity, must be submitted with the missing items identified in this notice.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is \$1160 for a non-small entity

- \$310 Statutory basic filing fee.
- \$130 Surcharge.
- The application search fee has not been paid. Applicant must submit \$510 to complete the search fee.
- The application examination fee has not been paid. Applicant must submit \$210 to complete the examination fee for a non-small entity.

Replies should be mailed to:

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

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If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

/lchau/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199



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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
12/031,867	02/15/2008	3641	0.00	1994-311	10	1

CONFIRMATION NO. 3346

6449

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

FILING RECEIPT



OC000000028529192

Date Mailed: 03/03/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

David Richard SMITH, Fort Jennings, OH;
Michael J. Hilvers, Fort Jennings, OH;
Brian James Petersen, Ottawa, OH;

Assignment For Published Patent Application

UNVERFERTH MANUFACTURING COMPANY INC., Kalida, OH

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/901,321 02/15/2007

Foreign Applications

If Required, Foreign Filing License Granted: 02/27/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/031,867**

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

Title

SEED CARRIER WITH PIVOTING CONVEYOR

Preliminary Class

111

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

TITLE OF THE INVENTION:

SEED CARRIER WITH PIVOTING CONVEYOR

BACKGROUND OF THE INVENTION

Cross-Reference to Related Application

[0001] The present application claims priority to Provisional Patent Application Serial No. 60/901,321 filed on February 15, 2007, the entire disclosure of which is incorporated herein by reference.

Field of the Invention

[0002] The present invention relates generally to a conveyor system for a grain or seed carrier. The conveyor system includes a novel pivot system that allows it to either load or unload a container by pivoting it into a loading or unloading position.

Description of the Related Art

[0003] Conveyor systems for moving grain, seed, etc. are well known. Auger systems are used to rapidly move grain such as feed or the like, while belt driven conveyors are often used for moving more expensive payload, such as seed.

[0004] One belt driven conveyor system includes a generally flat belt constructed from a flexible, sturdy material such as rubber or nylon. The conveyor is housed in a tube with rollers on both ends so that the belt may rotate in order to transmit material from one end to the other. Such conveyors are used for unloading seed carriers or the like. However, current conveyors have several problems.

[0005] First, current conveyors have the problem that the material being moved can be damaged by the rollers. Second, current conveyors do not have a full

range of motion as implemented in seed carries. Third, current conveyors are only implemented for unloading.

[0006] There is a need for new and improved conveyor systems that allow a wagon to be unloaded and loaded using a single mechanism.

SUMMARY OF THE INVENTION

[0007] According to an embodiment of the present invention, a seed tender or carrier is provided that includes a main hopper for holding seed and a conveyor for transferring seed to and from the main hopper.

[0008] According to an embodiment of the present invention, in an unloading position, one end of the conveyor may be positioned under the discharge of the main hopper and coupled with a pivoting support arm. In the unload position, the conveyor can be used to transfer seed from the main hopper to another location, such as to a planter, seeding unit, or the like. A pivot mechanism allows the conveyor to be rotated from under the box into a loading position in which the conveyor intake can rest on the ground or on a stand while the conveyor discharge is positioned to allow conveyed material to be discharged into the main hopper. In this loading position, the conveyor can be used to fill the main hopper.

[0009] According to an embodiment of the present invention, a conveyor hopper is provided on the intake side of the conveyor.

[0010] According to an embodiment of the present invention, the pivot mechanism allows the conveyor to swing from side to side to simplify unloading of the main hopper and the filling of planters, etc. The pivot mechanism can include a

hydraulic cylinder that adjusts the vertical height of the conveyor discharge relative for different filling applications.

[0011] According to an embodiment of the present invention, a pivot single pivot point can be provided at one end of the support arm to allow the conveyor to be rotated between the loading and unloading position. The conveyor may be balanced on the pivot point at a location near or at the center of gravity, thereby permitting the conveyor to be rotated with minimal effort on the part of the operator.

[0012] According to an embodiment of the present invention, the conveyor can be rotated through at least 180 degrees about a vertical axis and so that it may be positioned in either a forward or rearward transport position. This feature enables the tender to be pulled by different vehicles such as by a pick-up truck with the conveyor forward or by a grain truck with the conveyor rearward.

[0013] Further applications and advantages of various aspects and embodiments of the present invention are discussed below with reference to the drawing figures.

BRIEF DESCRIPTION OF THE DRAWINGS

[0014] FIG. 1 illustrates a seed carrier according to an embodiment of the present invention.

[0015] FIG. 2 is a view of a seed carrier in an unloading position according to an embodiment of the present invention.

[0016] FIG. 3 is a view of a seed carrier in a loading position according to an embodiment of the present invention.

[0017] Fig. 4 is a view of a base system for the seed carrier according to an embodiment of the present invention.

[0018] Fig. 5 is a view of a lever mechanism for the base system according to an embodiment of the present invention.

[0019] Fig. 6 is a view of a seed carrier in a transport position according to an embodiment of the present invention.

[0020] Fig. 7 is a view of a belt conveyor for the seed carrier according to an embodiment of the present invention.

[0021] Fig. 8 is a view of the discharge end of a conveyor according to an embodiment of the present invention.

[0022] Fig. 9 is a forward view of a conveyor belt wrapping around a roller according to an embodiment of the present invention.

[0023] Fig. 10 is a view of the conveyor hopper in an unloading position according to an embodiment of the present invention.

[0024] Fig. 11 illustrates the receiving end of the conveyor according to one embodiment of the present invention.

DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS

[0025] While the present invention may be embodied in many different forms, a number of illustrative embodiments are described herein with the understanding that the present disclosure is to be considered as providing examples of the principles of the invention and such examples are not intended to limit the invention to preferred embodiments described herein and/or illustrated herein.

[0026] In embodiments of the present invention, the novel conveyor pivot system can be implemented with seed carrier or seeding machines. The following section describes non-limiting examples of illustrative seeding equipment according to embodiments of the present invention. It should be appreciated that the following

examples are provided for illustration and the present invention is not intended to be limited to the embodiments described herein.

[0027] Fig. 1 is a diagram depicting a seed carrier having a tube conveyor according to an embodiment of the present invention. The seed carrier 100 includes a main hopper 105 coupled to a frame 107 by legs 106. A conveyor 104 is supported by a support arm 102 coupled with a pivoting mechanism 101 fixed to the frame 107. The conveyor 104 is pivotably coupled with the support arm by a coupling 103 at a point that is preferably near or at the center of gravity of the conveyor 104. The conveyor 104 is also coupled to the support arm 102 by a latch (not shown) at the bottom of the conveyor. The latch allows the conveyor 104 to be uncoupled from the support arm 102 at the bottom so that the conveyor is free to rotate about the coupling 103. By positioning the coupling 103 at or near the center of gravity of the conveyor 104, the conveyor 104 balances on the pivoting coupling 103 such that little effort is required to rotate the conveyor 104.

[0028] The conveyor 104 includes a conveyor hopper 108 at its base, which is shown in the unloading position below the gravity discharge 110 of the main hopper 105. At the other end of the conveyor 104 is the discharge 112. Seed can be gravity feed from the main hopper 105 into the conveyor hopper 108, which can then be moved to the discharge 112 of the conveyor 104 by an internal elevator (not shown). In one embodiment, the elevator is a motor-driven belt type elevator coupled onto rollers at both ends of the conveyor.

[0029] The seed carrier 100 may be transported by conventional means such as on a trailer. Fig. 2 illustrates the seed carrier 100 on a three axle trailer 200 according to an embodiment of the present invention. As shown, the conveyor 104 is in the unloading position.

[0030] Fig. 3 illustrates the seed carrier 100 in the loading position. As shown, the conveyor 104 is uncoupled from the support arm 102 at its base and rotated 180 degrees about pivot coupling 103 so that the conveyor hopper 108 is positioned at a convenient location away from the carrier while the discharge 112 of the conveyor 104 is located over the main hopper 105. A stand 307 is provided for holding the conveyor hopper 108 in place. The stand 307 may be integrated with the conveyor 104.

[0031] Accordingly, in the loading position, grain, seed or like can be feed into the conveyor hopper 108 to be moved to the discharge 112 for filling the main hopper 105.

[0032] Fig. 4 is a view of the pivoting base of the support arm 102. As shown, the support arm 102 can be pivotably coupled to a base 401 at a center point so that the support arm 102 is rotatable about a vertical axis. Wheels 403 provide support and can run along a track 402 to facilitate the support arm's 102 motion about the perimeter of the base 401. The support arm 102 can be locked into a selected position of the base 401 by engaging a pin (not shown) with one of a plurality of the holes 407 distributed around the base 401. The pin is disengaged with a hole by actuating a lever mechanism 404, which lifts the pin out of a hole. The lever mechanism 404 may be spring actuated to bias the pin toward the holes, so that simply releasing the lever will allow the pin to engage with one of the holes 407. Also shown, a hydraulic piston 405 is coupled with the support arm 102 for adjusting the height of the support arm 102.

[0033] Fig. 5 is an alternative view of the support arm base. As shown, lever mechanism 404 includes a handle 504 coupled with a cross-bars 505 and 506. Cross-bar 506 is coupled to cross-bar 505 on one end and to a plate 508 having a

pin 509 on the other end, and with a pivoting coupling 502 at a point near the plate. Rotating the handle 504 applies a downward force to crossbar 506 causing it to rotate about the coupling 502 to raise the plate 508 to disengage the pin 509. While disengaged, the base 401 is free to rotate about its vertical axis. Springs may be provided for biasing the pin 509 toward the holes 407 for engaging therewith, or the pin 509 can be engaged by gravity.

[0034] Fig. 6 is a side view of a seed carrier 100 according to an embodiment of the present invention. As shown in Fig. 6, the conveyor 104 includes an elongated discharge spout 602 and is positioned in a transport position. Support members 604 may be mounted on or integral with the legs 106 for holding the conveyor 104 in a forward transport position as shown, or a rearward transport position. As shown, the carrier 100 is fixed to a dual axle trailer 606.

[0035] Fig. 7 illustrates a basic belt driven conveyor according to an embodiment of the present invention. The conveyor 104 comprises a belt 702 that winds about a pair of rollers 704. The rollers are positioned outside a tube section 706, a first roller being positioned in the discharge 112 and a second roller being positioned below the conveyor hopper 108. A motor (not shown) or other means for turning the rollers may be provided at either end of the conveyor. A void 707 exists below the rollers 704 to allow the belt 702 to travel on its return path.

[0036] Fig. 8 is a view of a conveyor belt according to an embodiment of the present invention. The discharge end of a conveyor is shown where a conveyor belt wraps around a motor driven roller 802. The motor may be a hydraulic motor and therefore, hydraulic hoses 804 provide hydraulic fluid flow to and from the motor. Teeth 806 are provided to push grain or seed up the conveyor. As shown, the conveyor belt is cupped in the tube section but flattens out as it reaches the roller

802. Channeling members (seals) 808 are provided on each side of the belt to form a seal and prevent grain or seed from falling off the edges of the belt as the belt begins to conform to the tubular portion of the conveyor 104.

[0037] Fig. 9 is a front view of the belt as it travels over the roller 802. Channeling members (seals) 902 are provided on each side of the belt to form a seal and prevent grain or seed from falling off the edges of the belt as the belt flattens at the roller. As shown, the channeling members 902 are fixed to the conveyor discharge 112 with bolts, but can be fixed by other means or can be integral with the discharge.

[0038] Discs 904 are provided at the rollers at the edge of the belt to provide additional channeling/sealing means. The discs 904 are preferably integral with the rollers or coupled therewith so that they may rotate.

[0039] Fig. 10 is a side view of the hopper end of the conveyor 104. As shown, conveyor hopper 108 sits above in ingress 1003 to the conveyor 104. When coupled to the support arm 102, as shown, the conveyor hopper 108 is positioned below a discharge of the main hopper 106. The discharge 110 may be opened by conventional means. As showed, a wheel handle mechanism 1004 is provided for opening the discharge doors 1006.

[0040] The conveyor hopper 108 is preferably manufactured from light weight materials such as plastic, canvas, rubber or vinyl. As shown, the hopper 108 may include a mechanism for opening and closing the hopper. In this embodiment, flexible coupling or hinge is provided at one end 1008 of the hopper 108 and a mechanism 1010 is provided at the end of the hopper 108 and is coupled with the conveyor 104, such that the hopper 108 may be made to have an appropriate fit wit

the discharge 110 of the main hopper 105. A flap 1012 can be provided at the bottom of the discharge 110.

[0041] Fig. 11 is a schematic view of the hopper end of the conveyor. As is shown, a brush seal 1101 can be located across the belt 702. The brush seal 1101 retains the conveyed material within the hopper and does not allow the material to enter the void 707 (shown in Fig. 7) under the roller. Such an arrangement is desirable because it prevents the conveyed material from being subjected to mechanical agitation, which would result in damage to the conveyed material. The brush seal 1101 allows the conveyor teeth 806 to pass, but not the conveyed material.

[0042] One will understand that hydraulic power can be provided by a towing vehicle, such as a tractor or the like or alternatively, hydraulic power can be provided on the tender and driving electrically from the towing vehicle, such as a truck.

[0043] Thus, a number of preferred embodiments have been fully described above with reference to the drawing figures. Although the invention has been described based upon these preferred embodiments, it would be apparent to those of skill in the art that certain modifications, variations, and alternative constructions could be made to the described embodiments within the spirit and scope of the invention

We claim:

1. A seed or grain tender comprising:
 - a main hopper coupled with a frame via leg members, said main hopper having a discharge;
 - a base plate coupled with said frame;
 - a support arm rotatable coupled with said base plate at a first end;
 - a conveyor having a conveyor hopper at a first end and a discharge at a second end, said conveyor being rotatably coupled with a second end of said support arm at an approximate center of gravity of said conveyor;
 - a latch mechanism for detachably coupling said first end of said conveyor with said first end of said support arm such that said conveyor hopper is positioned below said main hopper discharge; and
 - a locking mechanism for locking or unlocking said support arm to said base plate.
2. The seed tender as recited in claim 1, wherein said conveyor further includes an elevator for moving seed or grain from said conveyor hopper to said discharge, and a motor positioned in said discharge for driving said elevator.
3. The seed tender as recited in claim 1, wherein said conveyor is a belt driven tube conveyor.
4. The seed tender as recited in claim 1, further comprising a hydraulic piston coupled with said base plate and with said support arm, for raising and lowering said support arm.

5. The seed tender as recited in claim 1, wherein said conveyor hopper is adjustable in size.
6. The seed tender as recited in claim 1, wherein said conveyor is rotatably coupled with said support arm such that said conveyor can rotate about a substantially vertical axis.
7. The seed tender as recited in claim 1, wherein said conveyor is rotatably coupled with said support arm such that said conveyor is rotatable about a vertical axis into a loading position in which said discharge is positioned over said main hopper.
8. The seed tender as recited in claim 1, wherein said conveyor is rotatably coupled with said support arm such that said conveyor is rotatable about a vertical axis into an unloading position in which said conveyor hopper is positioned under the discharge of said main hopper.
9. The seed tender as recited in claim 1, wherein the discharge of said main hopper is a gravity discharge.
10. The seed tender as recited in claim 1, wherein said main hopper includes side walls inwardly converging to said discharge.

ABSTRACT OF THE INVENTION

A seed carrier includes a main hopper coupled with a frame via leg members. The main hopper has a discharge. A base plate is coupled with the frame. A support arm is rotatably coupled with the base plate at a first end. A belt driven conveyor having a conveyor hopper at a first end and a discharge at a second end is rotatably coupled with a second end of said support arm at an approximate center of gravity thereof. A latch mechanism is provided for detachably coupling the first end of the conveyor with the first end of the support arm such that the conveyor hopper is positioned below the main hopper discharge. When the conveyor is uncoupled from the first end of the support arm, the conveyor can rotate to a loading position wherein the discharge thereof can be positioned over the main hopper.

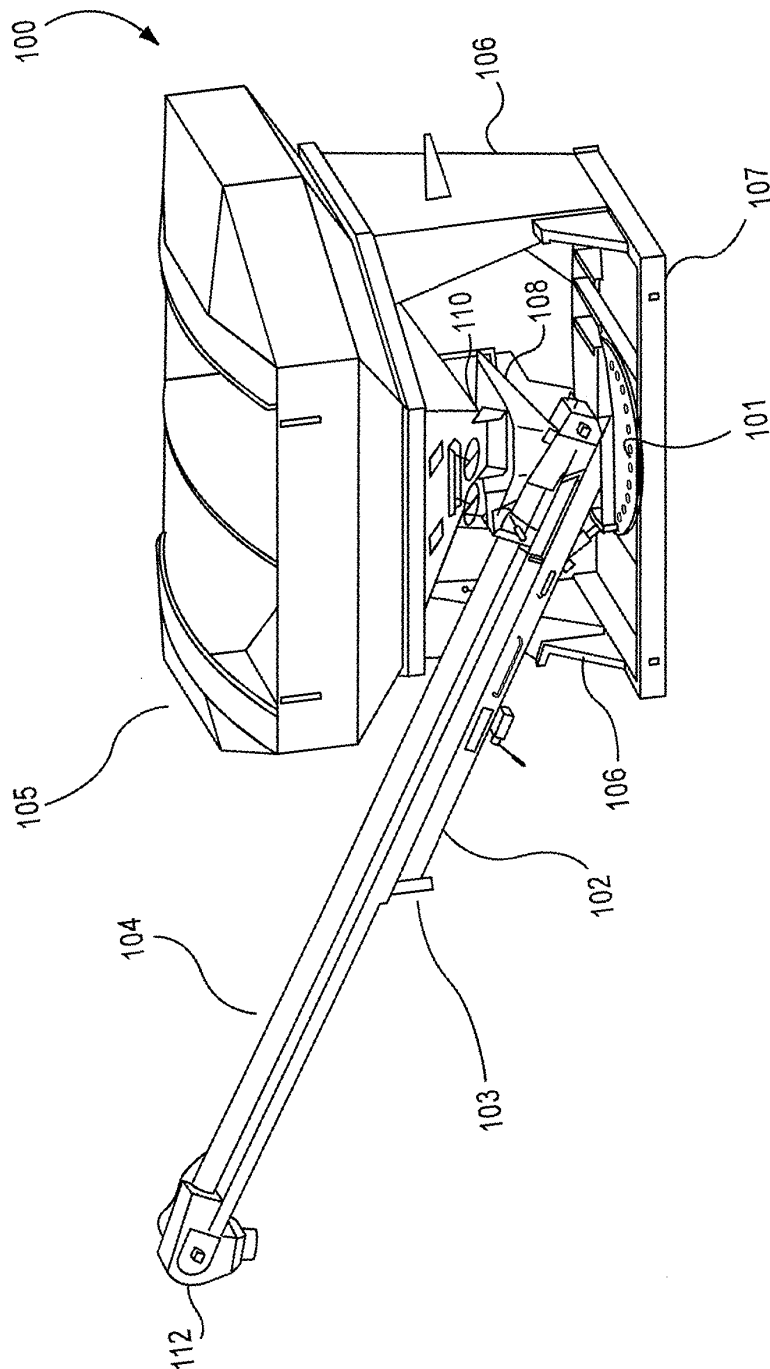


FIG. 1

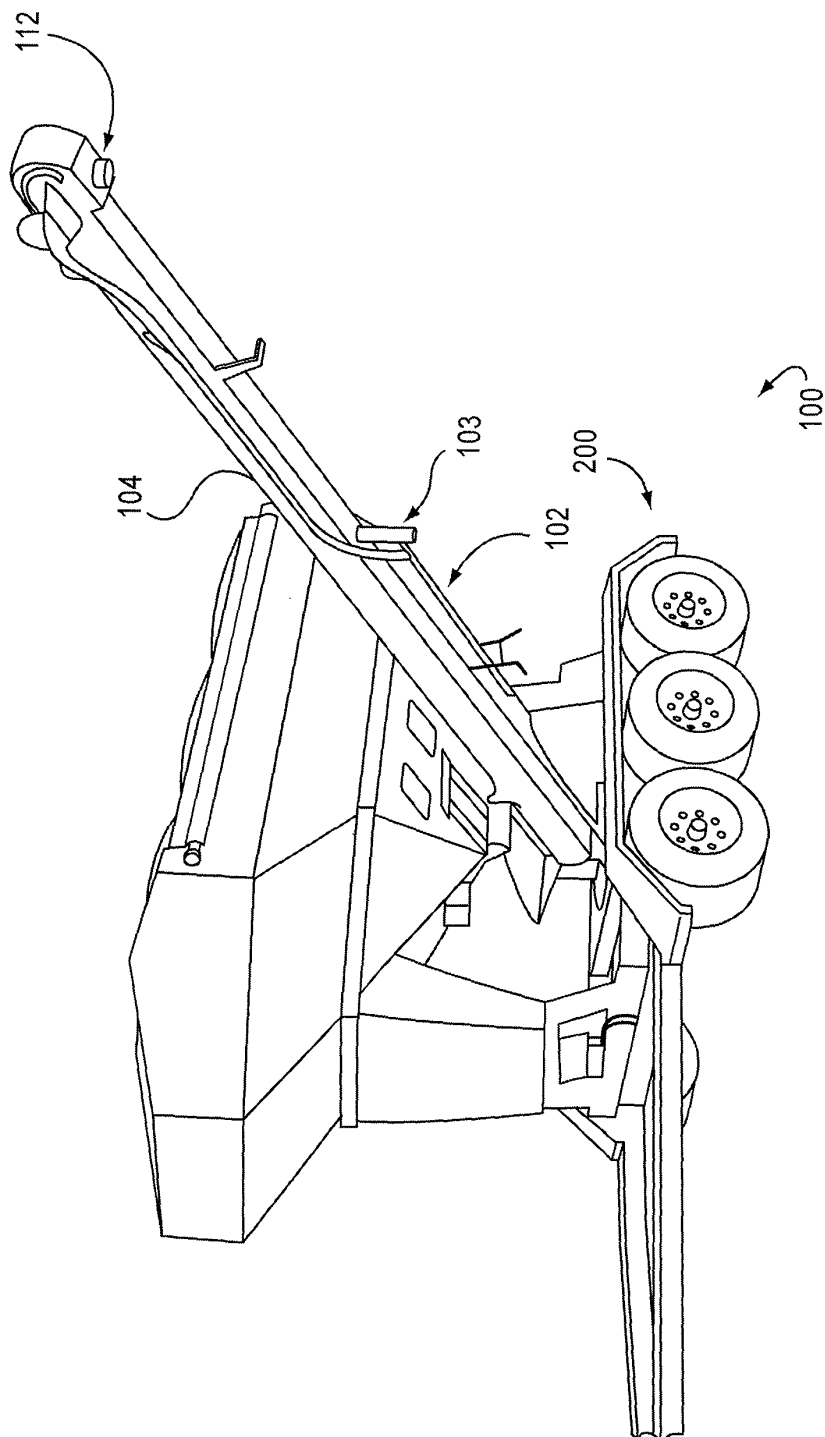
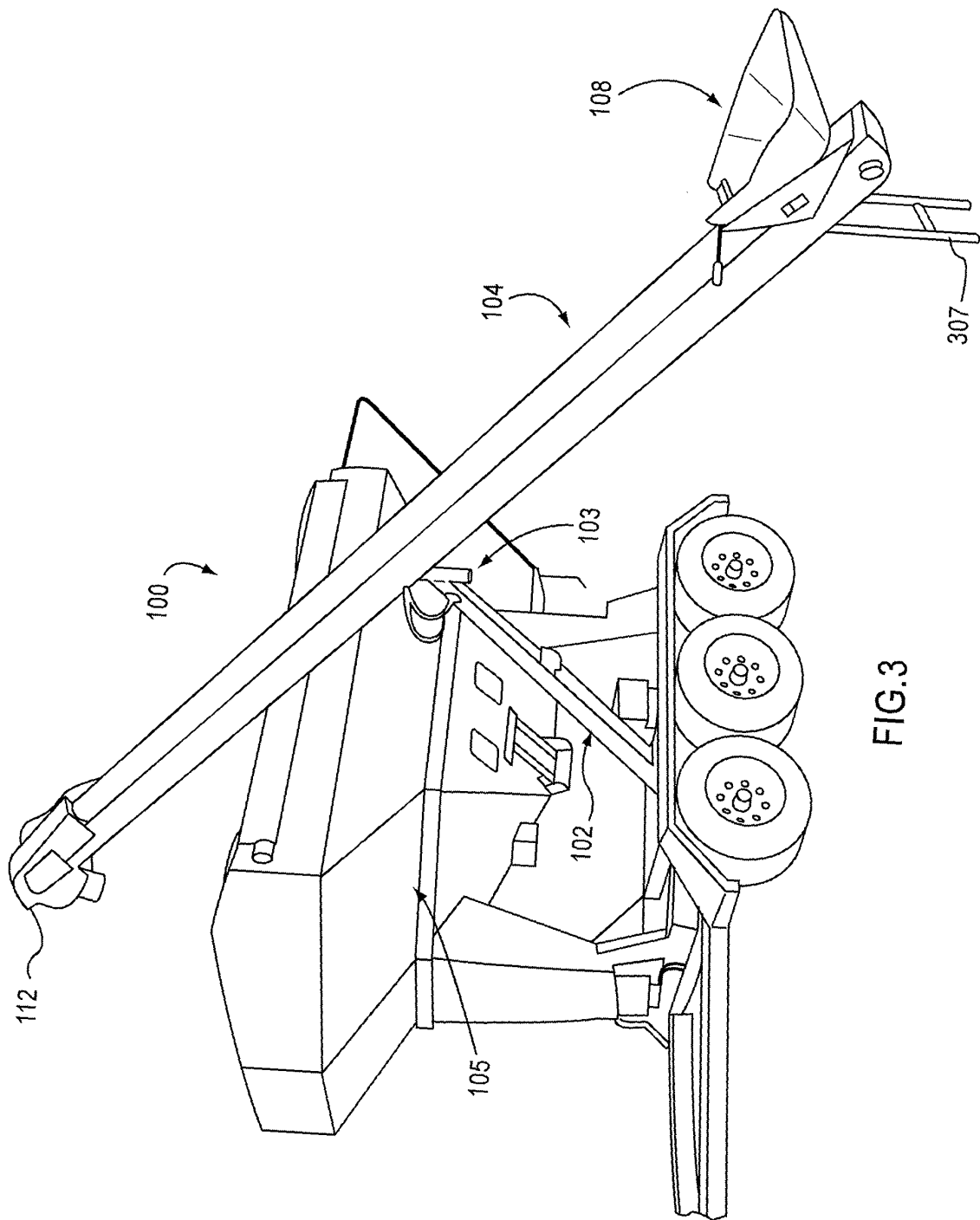
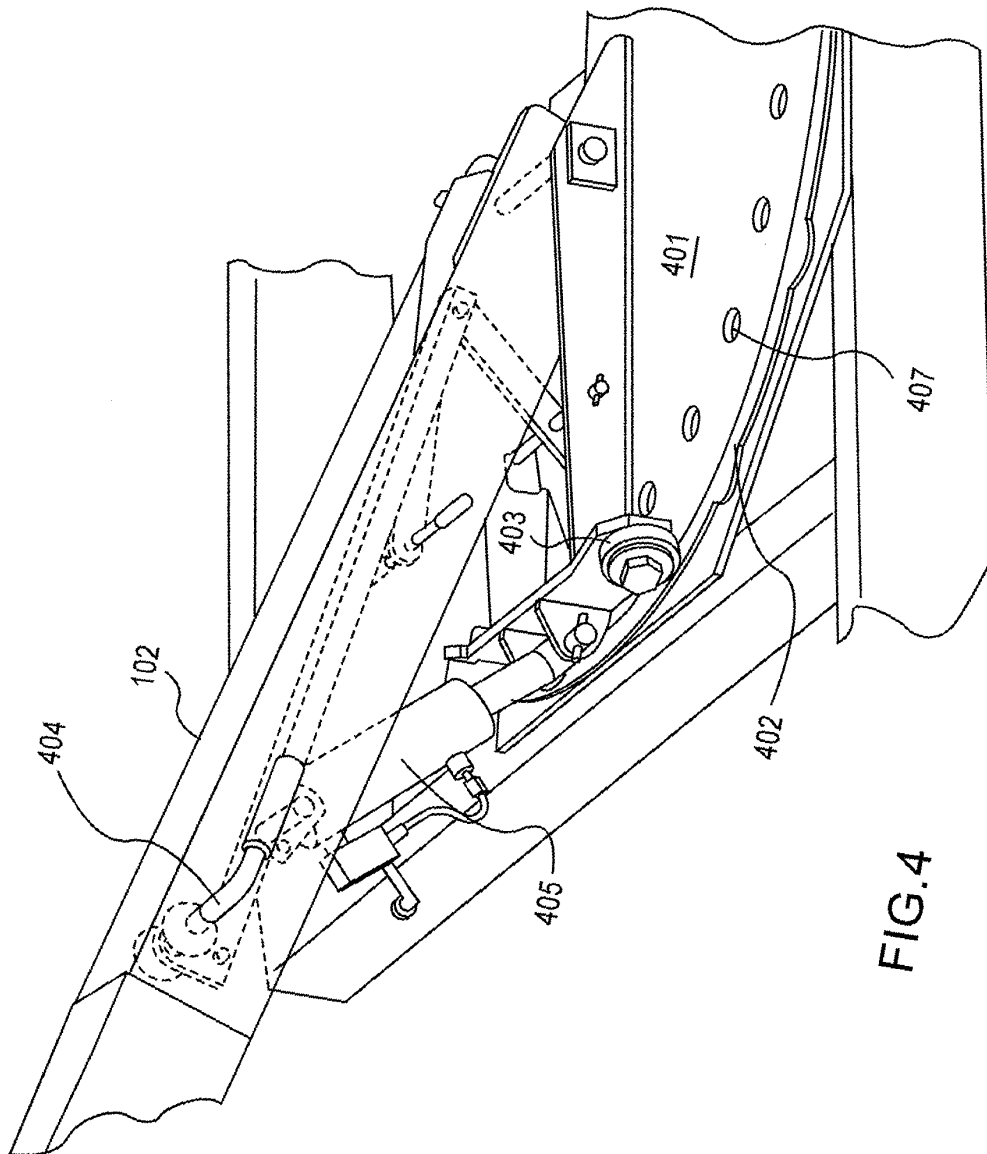


FIG. 2





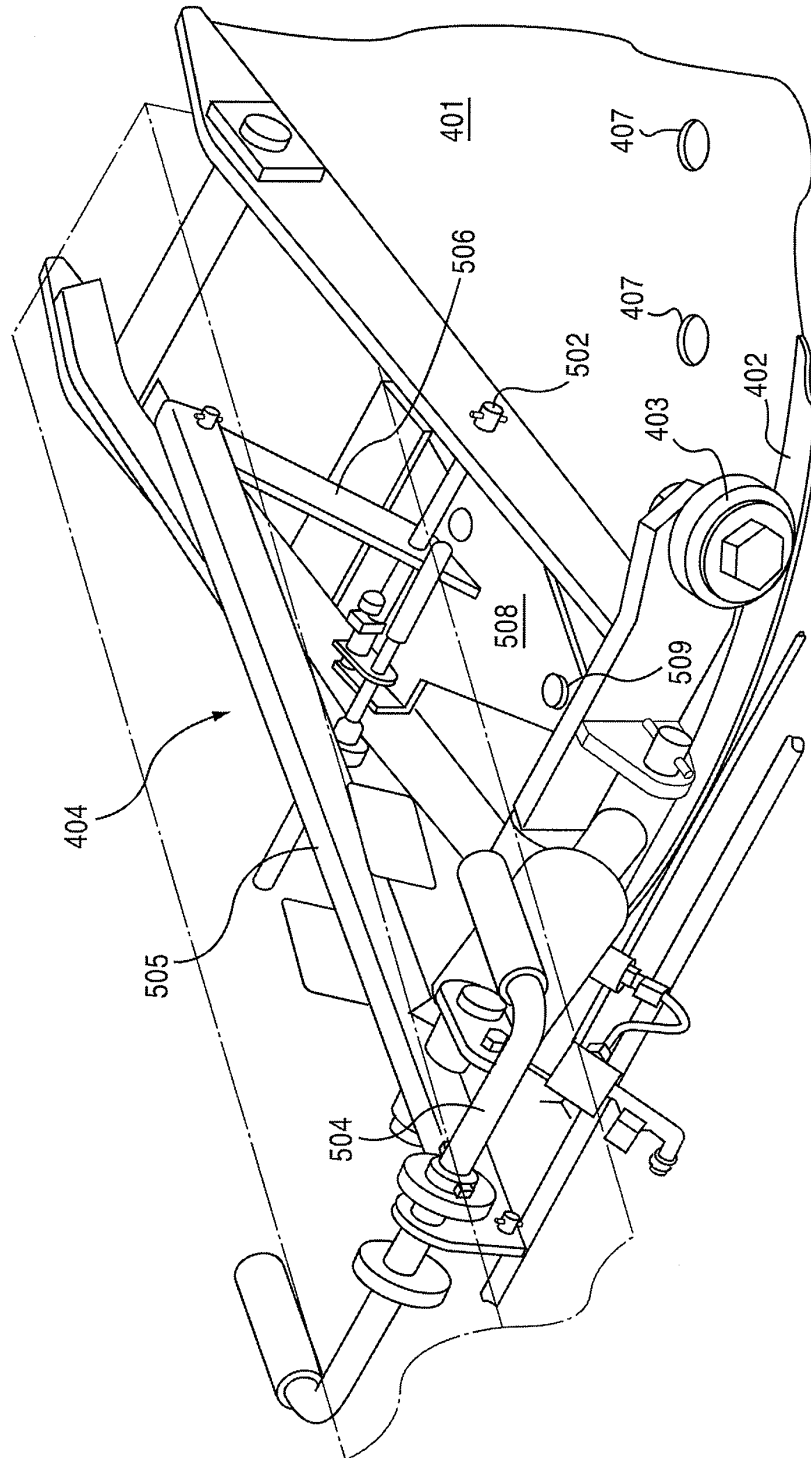


FIG. 5

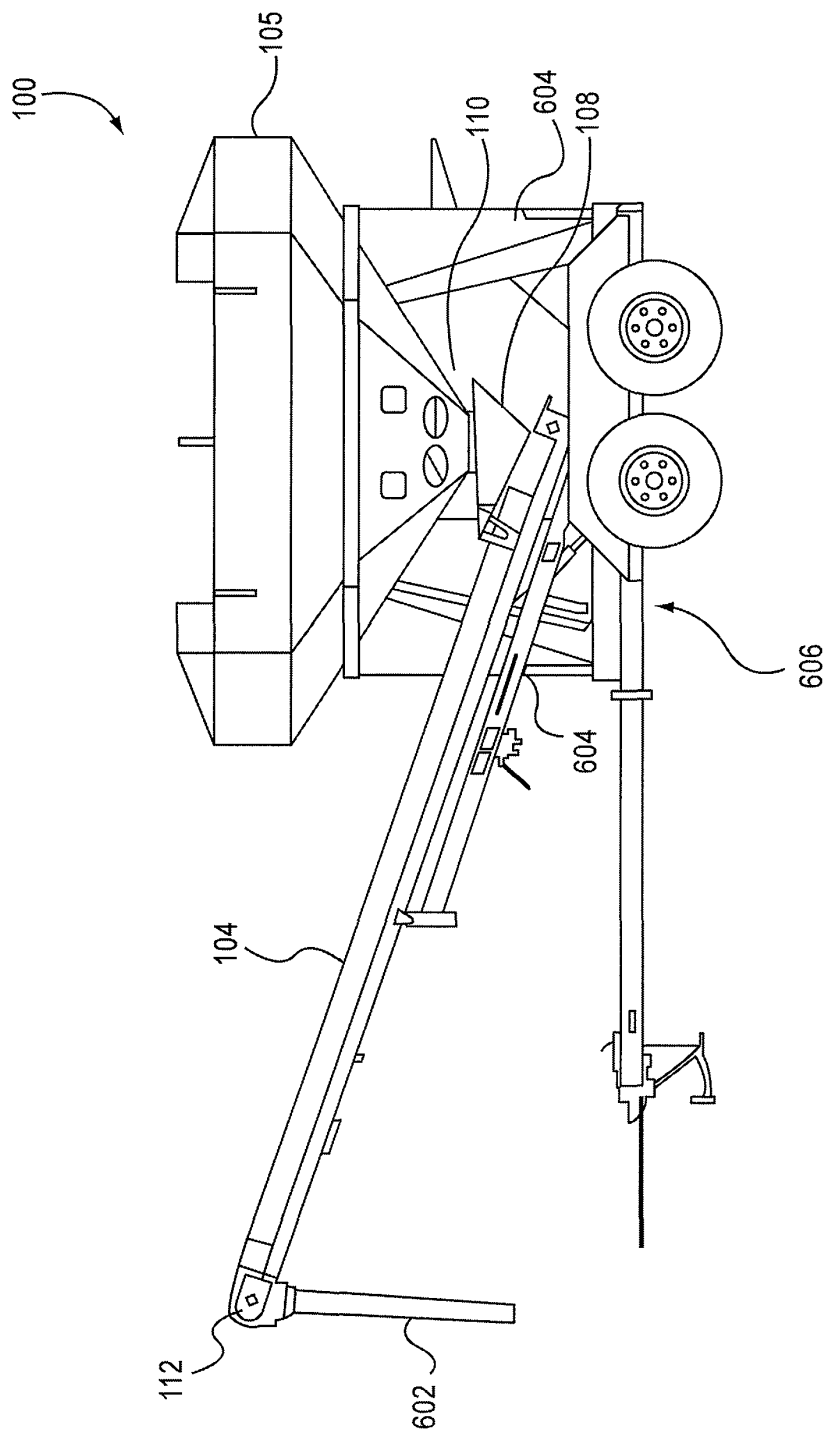
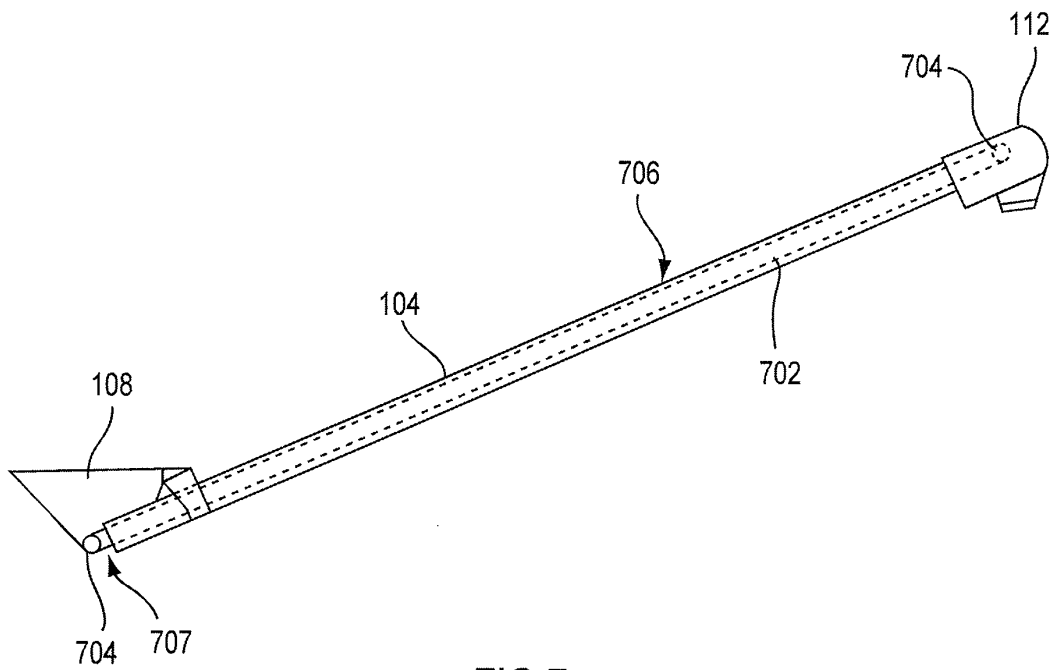


FIG. 6



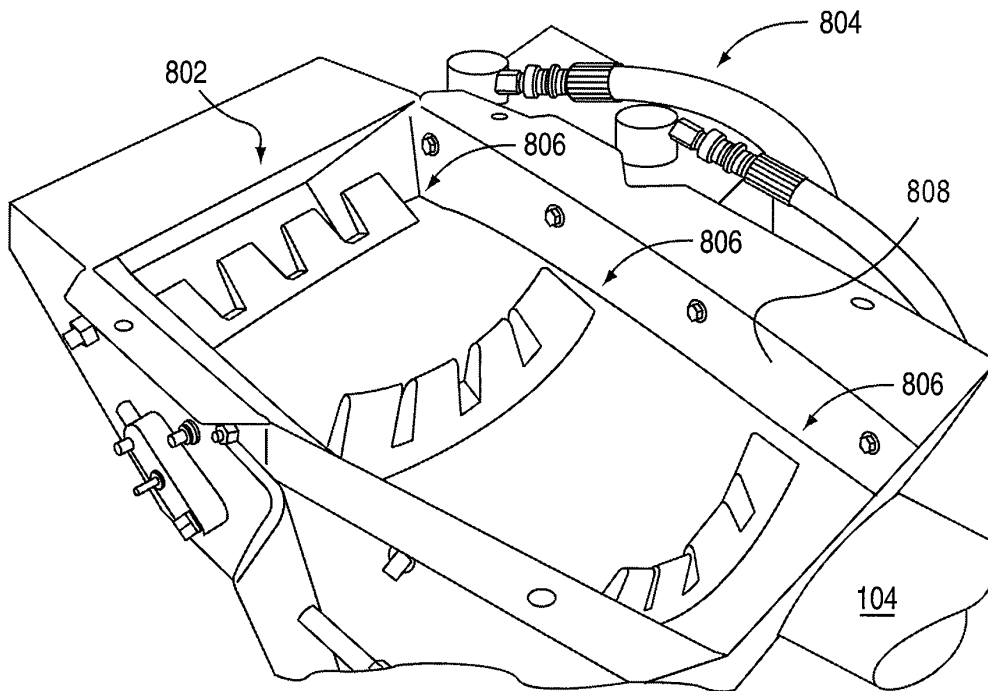


FIG.8

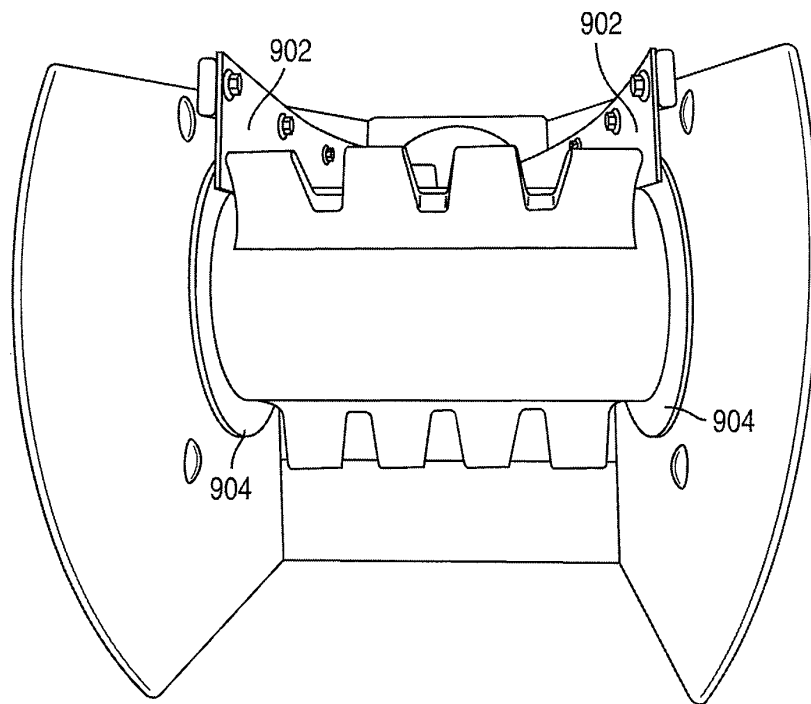
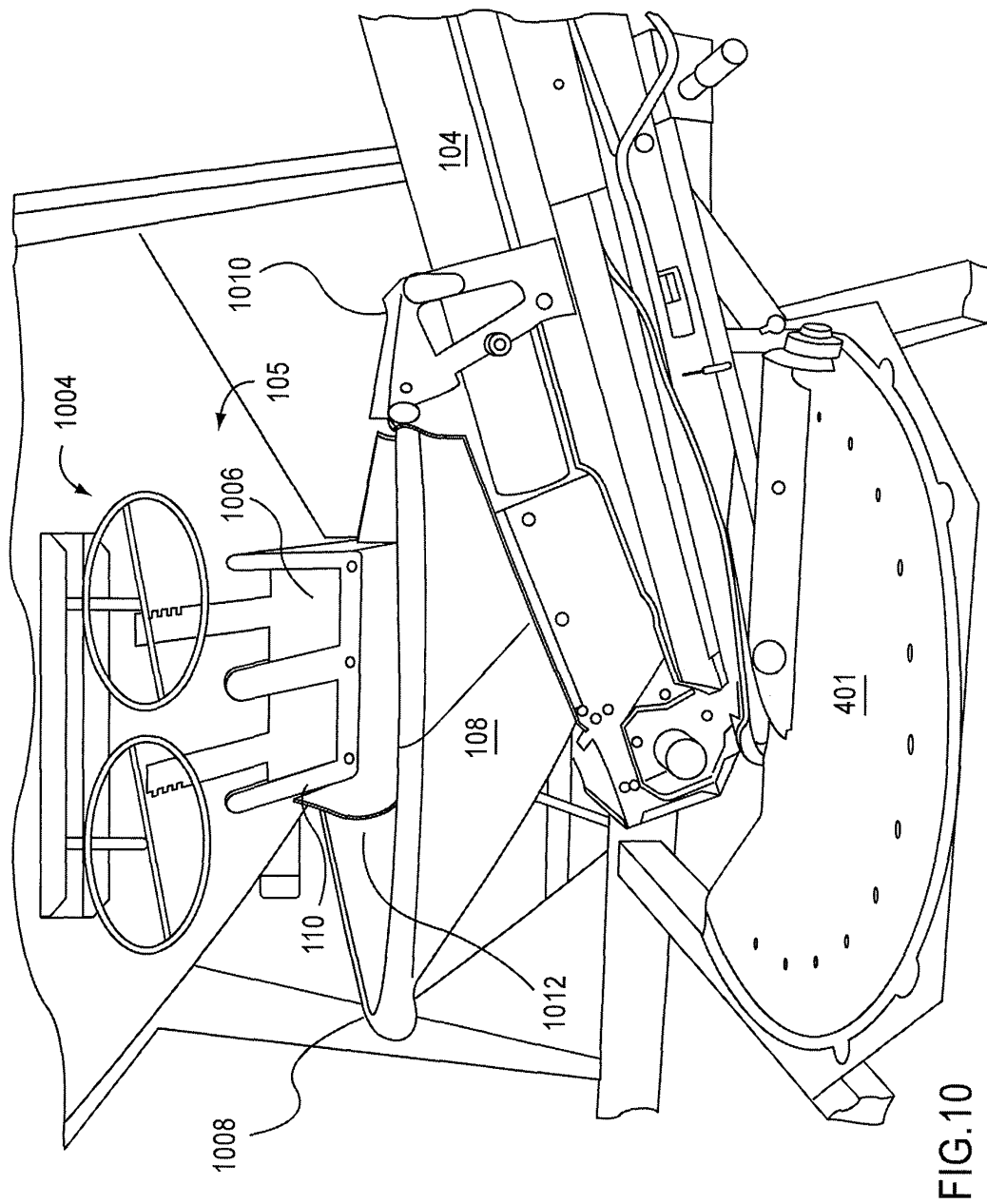


FIG.9



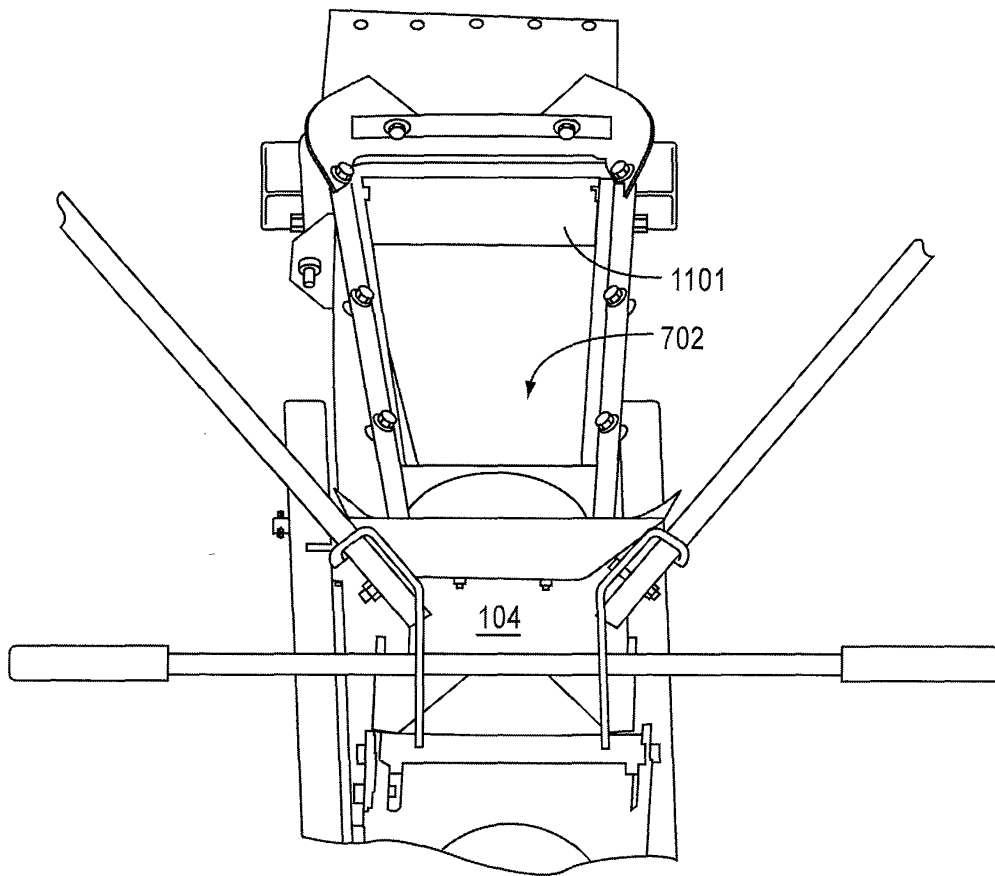


FIG.11

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Application Data Sheet 37 CFR 1.76		Attorney Docket Number	1994-311
		Application Number	
Title of Invention	SEED CARRIER WITH PIVOTING CONVEYOR		
The application data sheet is part of the provisional or nonprovisional application for which it is being submitted. The following form contains the bibliographic data arranged in a format specified by the United States Patent and Trademark Office as outlined in 37 CFR 1.76. This document may be completed electronically and submitted to the Office in electronic format using the Electronic Filing System (EFS) or the document may be printed and included in a paper filed application.			

Secrecy Order 37 CFR 5.2

- ☐ Portions or all of the application associated with this Application Data Sheet may fall under a Secrecy Order pursuant to 37 CFR 5.2 (Paper filers only. Applications that fall under Secrecy Order may not be filed electronically.)

Applicant Information:

Applicant 1					
Applicant Authority		☒ Inventor		☐ Legal Representative under 35 U.S.C. 117	
				☐ Party of Interest under 35 U.S.C. 118	
Prefix	Given Name	Middle Name	Family Name	Suffix	
	David	Richard	SMITH		
Residence Information (Select One) ☒ US Residency ☐ Non US Residency ☐ Active US Military Service					
City	Fort Jennings	State/Province	OH	Country of Residence i	US
Citizenship under 37 CFR 1.41(b) i		US			
Mailing Address of Applicant:					
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Address 2					
City	Fort Jennings	State/Province	OH		
Postal Code	45844	Country i	US		
Applicant 2					
Applicant Authority		☒ Inventor		☐ Legal Representative under 35 U.S.C. 117	
				☐ Party of Interest under 35 U.S.C. 118	
Prefix	Given Name	Middle Name	Family Name	Suffix	
	Michael	J.	HILVERS		
Residence Information (Select One) ☒ US Residency ☐ Non US Residency ☐ Active US Military Service					
City	Fort Jennings	State/Province	OH	Country of Residence i	US
Citizenship under 37 CFR 1.41(b) i		US			
Mailing Address of Applicant:					
Address 1		17981 Road 27			
Address 2					
City	Fort Jennings	State/Province	OH		
Postal Code	45844	Country i	US		
Applicant 3					
Applicant Authority		☒ Inventor		☐ Legal Representative under 35 U.S.C. 117	
				☐ Party of Interest under 35 U.S.C. 118	
Prefix	Given Name	Middle Name	Family Name	Suffix	
	Brian	James	PETERSEN		
Residence Information (Select One) ☒ US Residency ☐ Non US Residency ☐ Active US Military Service					
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Application Data Sheet 37 CFR 1.76		Attorney Docket Number	1994-311
		Application Number	
Title of Invention	SEED CARRIER WITH PIVOTING CONVEYOR		
Citizenship under 37 CFR 1.41(b) i	US		
Mailing Address of Applicant:			
Address 1	16124 Road L.		
Address 2			
City	Ottawa	State/Province	OH
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☐ An Address is being provided for the correspondence information of this application.			
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Email Address	PTO-PAT-Email@rfem.com	Add Email	Remove Email

Application Information:

Title of the Invention	SEED CARRIER WITH PIVOTING CONVEYOR		
Attorney Docket Number	1994-311	Small Entity Status Claimed	☐
Application Type	Nonprovisional		
Subject Matter	Utility		
Suggested Class (if any)		Sub Class (if any)	
Suggested Technology Center (if any)			
Total Number of Drawing Sheets (if any)	11	Suggested Figure for Publication (if any)	

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☐ Request Early Publication (Fee required at time of Request 37 CFR 1.219)
Request Not to Publish. I hereby request that the attached application not be published under 35 U.S. C. 122(b) and certify that the invention disclosed in the attached application has not and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing.

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Application Data Sheet 37 CFR 1.76		Attorney Docket Number	1994-311
		Application Number	
Title of Invention	SEED CARRIER WITH PIVOTING CONVEYOR		
Customer Number	06449		

Domestic Benefit/National Stage Information:

This section allows for the applicant to either claim benefit under 35 U.S.C. 119(e), 120, 121, or 365(c) or indicate National Stage entry from a PCT application. Providing this information in the application data sheet constitutes the specific reference required by 35 U.S.C. 119(e) or 120, and 37 CFR 1.78(a)(2) or CFR 1.78(a)(4), and need not otherwise be made part of the specification.

Prior Application Status	Pending	Remove	
Application Number	Continuity Type	Prior Application Number	Filing Date (YYYY-MM-DD)
	non provisional of	60901321	2007-02-15

Additional Domestic Benefit/National Stage Data may be generated within this form by selecting the **Add** button.

Foreign Priority Information:

This section allows for the applicant to claim benefit of foreign priority and to identify any prior foreign application for which priority is not claimed. Providing this information in the application data sheet constitutes the claim for priority as required by 35 U.S.C. 119(b) and 37 CFR 1.55(a).

			Remove
Application Number	Country ⁱ	Parent Filing Date (YYYY-MM-DD)	Priority Claimed
			☒ Yes ☐ No

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Providing this information in the application data sheet does not substitute for compliance with any requirement of part 3 of Title 37 of the CFR to have an assignment recorded in the Office.

Assignee 1

If the Assignee is an Organization check here. ☒

Organization Name UNVERFERTH MANUFACTURING COMPANY INC.

Mailing Address Information:

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Address 2			
City	Kalida	State/Province	OH
Country ⁱ	US	Postal Code	45853
Phone Number		Fax Number	
Email Address			

Additional Assignee Data may be generated within this form by selecting the **Add** button.

Signature:

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.

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Application Data Sheet 37 CFR 1.76		Attorney Docket Number		1994-311	
		Application Number			
Title of Invention		SEED CARRIER WITH PIVOTING CONVEYOR			
Signature				Date (YYYY-MM-DD)	2008-02-15
First Name	Brian	Last Name	Tollefson	Registration Number	46338

This collection of information is required by 37 CFR 1.76. 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 23 minutes to complete, including gathering, preparing, and submitting the completed application data sheet 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, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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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 inspections 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.

Electronic Acknowledgement Receipt	
EFS ID:	2862610
Application Number:	12031867
International Application Number:	
Confirmation Number:	3346
Title of Invention:	SEED CARRIER WITH PIVOTING CONVEYOR
First Named Inventor/Applicant Name:	David R. SMITH
Customer Number:	06449
Filer:	Brian A. Tollefson/Beverly Peterson
Filer Authorized By:	Brian A. Tollefson
Attorney Docket Number:	1994-311
Receipt Date:	15-FEB-2008
Filing Date:	
Time Stamp:	12:26:11
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no
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File Listing:

Document Number	Document Description	File Name	File Size(Bytes) /Message Digest	Multi Part /.zip	Pages (if appl.)
1		Application.pdf	402650	yes	12
			3125bd67901f62e43031d95bc4271201f8744747		

	Multipart Description/PDF files in .zip description								
	Document Description		Start	End					
	Specification		1	9					
	Claims		10	11					
	Abstract		12	12					
Warnings:									
Information:									
2	Drawings-other than black and white line drawings	Figures.pdf	601973	no	11				
			25cfd576b87159c84b19aekd11e1501ad4508e91						
Warnings:									
Information:									
3	Application Data Sheet	ADS.pdf	261710	no	5				
			be7165ca812fbc29f9b76de483ab1409bc85e16b						
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SCORE Placeholder Sheet for IFW Content

Application Number: 12031867

Document Date: 2/15/08

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PATENT APPLICATION FEE DETERMINATION RECORD					12/031,867																																					
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APPLICATION AS FILED – PART I																																										
(Column 1)		(Column 2)		SMALL ENTITY		OR																																				
OTHER THAN SMALL ENTITY																																										
FOR	NUMBER FILED	NUMBER EXTRA	RATE (\$)	FEE (\$)	RATE (\$)	FEE (\$)																																				
BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A		N/A	310																																				
SEARCH FEE (37 CFR 1.16(k), (l), or (m))	N/A	N/A	N/A		N/A	510																																				
EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	0	N/A	N/A		N/A	210																																				
TOTAL CLAIMS (37 CFR 1.16(i))	10	minus 20 = 0	X\$ 25		X\$50	0																																				
INDEPENDENT CLAIMS (37 CFR 1.16(h))	1	minus 3 = 0	X\$105		X\$210	0																																				
APPLICATION SIZE FEE (37 CFR 1.16(s))			If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).																																							
MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))			185		370																																					
			TOTAL	0	TOTAL	1030																																				
* If the difference in column 1 is less than zero, enter "0" in column 2.																																										
APPLICATION AS AMENDED – PART II																																										
(Column 1)		(Column 2)		(Column 3)																																						
SMALL ENTITY		OR		OTHER THAN SMALL ENTITY																																						
RATE (\$)	ADDITIONAL FEE (\$)	RATE (\$)	ADDITIONAL FEE (\$)																																							
X =		X =																																								
X =		X =																																								
N/A		N/A																																								
TOTAL		TOTAL																																								
ADD'T FEE		ADD'T FEE																																								
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* If the entry in column 1 is less than the entry in column 2, write "0" in column 3. ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20". *** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3". The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.																																										

This collection of information is required by 37 CFR 1.16. 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, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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