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APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
15/675,409	01/22/2019	10184242	MLP 7708.USC1	6105

321 7590 01/01/2019
STINSON LEONARD STREET LLP
7700 FORSYTH BOULEVARD, SUITE 1100
ST LOUIS, MO 63105

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 0 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):

Steven Brekke, Lakeville, ICELAND;
Columbia Insurance Company, Omaha, NE;
Mark R. Rolf, Fredericksburg, VA;

The United States represents the largest, most dynamic marketplace in the world and is an unparalleled location for business investment, innovation, and commercialization of new technologies. The USA offers tremendous resources and advantages for those who invest and manufacture goods here. Through SelectUSA, our nation works to encourage and facilitate business investment. To learn more about why the USA is the best country in the world to develop technology, manufacture products, and grow your business, visit SelectUSA.gov.



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NOTICE OF ALLOWANCE AND FEE(S) DUE

321 7590 12/05/2018
STINSON LEONARD STREET LLP
7700 FORSYTH BOULEVARD, SUITE 1100
ST LOUIS, MO 63105

EXAMINER

ERENCE, JAMES M

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 12/05/2018

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
15/675,409	08/11/2017	Steven Brekke	MLP 7708.USC1	6105

TITLE OF INVENTION: HANGER FOR FIRE SEPARATION WALL

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	UNDISCOUNTED	\$1000	\$0.00	\$0.00	\$1000	03/05/2019

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

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

HOW TO REPLY TO THIS NOTICE:

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

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

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

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

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

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

IMPORTANT REMINDER: Maintenance fees are due in utility patents issuing on applications filed on or after Dec. 12, 1980. It is patentee's responsibility to ensure timely payment of maintenance fees when due. More information is available at www.uspto.gov/PatentMaintenanceFees.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), by mail or fax, or via EFS-Web.

By mail, send to: Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

By fax, send to: (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)

321 7590 12/05/2018
STINSON LEONARD STREET LLP
7700 FORSYTH BOULEVARD, SUITE 1100
ST LOUIS, MO 63105

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 transmitted to the USPTO via EFS-Web or by facsimile to (571) 273-2885, on the date below.

(Typed or printed name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
15/675,409	08/11/2017	Steven Brekke	MLP 7708.USC1	6105

TITLE OF INVENTION: HANGER FOR FIRE SEPARATION WALL

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	UNDISCOUNTED	\$1000	\$0.00	\$0.00	\$1000	03/05/2019

EXAMINER	ART UNIT	CLASS-SUBCLASS
FERENCE, JAMES M	3635	052-708000

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 03-09 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 must have been previously recorded, or filed for recordation, as set forth in 37 CFR 3.11 and 37 CFR 3.81(a). 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. Fees submitted: ☐ Issue Fee ☐ Publication Fee (if required) ☐ Advance Order - # of Copies _____

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

☐ Electronic Payment via EFS-Web ☐ Enclosed check ☐ Non-electronic payment by credit card (Attach form PTO-2038)

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment to Deposit Account No. _____

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

☐ Applicant certifying micro entity status. See 37 CFR 1.29

☐ Applicant asserting small entity status. See 37 CFR 1.27

☐ Applicant changing to regular undiscounted fee status.

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

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

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

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

Authorized Signature _____

Date _____

Typed or printed name _____

Registration No. _____



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
15/675,409	08/11/2017	Steven Brekke	MLP 7708.USC1	6105
321 7590 12/05/2018 STINSON LEONARD STREET LLP 7700 FORSYTH BOULEVARD, SUITE 1100 ST LOUIS, MO 63105			EXAMINER ERENCE, JAMES M	
			ART UNIT 3635	PAPER NUMBER
DATE MAILED: 12/05/2018				

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

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

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

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

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

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

The information collected by PTOL-85 Part B is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.** Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Privacy Act Statement

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

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

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

Notice of Allowability	Application No. 15/675,409	Applicant(s) Brekke et al.	
	Examiner JAMES M FERENCE	Art Unit 3635	AIA Status Yes

-- 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 11/1/2018.
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2. ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

3. ☒ The allowed claim(s) is/are 21-40 and 42. As a result of the allowed claim(s), you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to **PPHfeedback@uspto.gov**.

4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
Certified copies:
a) ☐ All b) ☐ Some *c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file areply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

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

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)	5. ☐ Examiner's Amendment/Comment
2. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____.	6. ☒ Examiner's Statement of Reasons for Allowance
3. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material _____.	7. ☒ Other <u>PTO-2323</u> .
4. ☐ Interview Summary (PTO-413), Paper No./Mail Date. _____.	

/JAMES M FERENCE/ Primary Examiner, Art Unit 3635	
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NOTICE OF ALLOWANCE

This Office action is a reply to the amendment filed on 11/1/2018. Claims 21-40 and 42 are pending. Claims 31 and 40 have been withdrawn. Claims 1-20 and 41 have been cancelled.

Election/Restrictions

Claims 21, 32 and 42 are allowable. The restriction requirement among species, as set forth in the Office action mailed on 10/6/2017, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Specifically, the restriction requirement of Species I and II is withdrawn. Claims 31 and 40, directed to a nonelected species are no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Claims 21-40 and 42 are allowed.

Claims 1-20 and 41 have been cancelled.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance: applicant's arguments filed on 11/1/2018 in light of the amendments filed on 11/1/2018 are persuasive.

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."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES M FERENCE whose telephone number is (571)270-7861. The examiner can normally be reached on M-F 7-4pm.

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

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joshua Michener can be reached on 571-272-1467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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

JAMES M. FERENCE
Primary Examiner
Art Unit 3635

/JAMES M FERENCE/
Primary Examiner, Art Unit 3635

AFCP 2.0 Decision

Application No.

15/675,409

Applicant(s)

Brekke et al.

Examiner

JAMES M FERENCE

Art Unit

3635

AIA Status

Yes

This is in response to the After Final Consideration Pilot request filed 01 November 2018.

1. **Improper Request** – The AFCP 2.0 request is improper for the following reason(s) and the after final amendment submitted with the request will be treated under pre-pilot procedure.

- ☐ An AFCP 2.0 request form PTO/SB/434 (or equivalent document) was not submitted.
- ☐ A non-broadening amendment to at least one independent claim was not submitted.
- ☐ A proper AFCP 2.0 request was submitted in response to the most recent final rejection.
- ☐ Other: _____

2. **Proper Request**

- A. After final amendment submitted with the request will not be treated under AFCP 2.0.

The after final amendment cannot be reviewed and a search conducted within the guidelines of the pilot program.

- ☐ The after final amendment will be treated under pre-pilot procedure.

- B. Updated search and/or completed additional consideration.

The examiner performed an updated search and/or completed additional consideration of the after final amendment within the time authorized for the pilot program. The result(s) of the updated search and/or completed additional consideration are:

- ☒ 1. All of the rejections in the most recent final Office action are overcome and a Notice of Allowance is issued herewith.
- ☐ 2. The after final amendment would not overcome all of the rejections in the most recent final Office action. See attached interview summary for further details.
- ☐ 3. The after final amendment was reviewed, and it raises a new issue(s). See attached interview summary for further details.
- ☐ 4. The after final amendment raises new issues, but would overcome all of the rejections in the most recent final Office action. A decision on determining allowability could not be made within the guidelines of the pilot. See attached interview summary for further details, including any newly discovered prior art.
- ☐ 5. Other: _____

Examiner Note: Please attach an interview summary when necessary as described above.

OK TO ENTER: /J.M.F/

11/19/2018

3512456.150004 (MLP 7708.USC1)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Steven Brekke

Art Unit 3635

Serial No. 15/675,409

Filed August 11, 2017

Confirmation No. 6105

For HANGER FOR FIRE SEPARATION WALL

Examiner James Terrence

November 1, 2018

AMENDMENT D (w/ AFCP 2.0 Request)

TO THE COMMISSIONER FOR PATENTS,

In response to the Final Office action mailed September 5, 2018, please enter the following amendments and consider the following remarks.

Amendments to the Claims are reflected in the listing of claims that begins on page 2 of this paper.

Remarks begin on page 7 of this paper.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Steven Brekke

Art Unit 3635

Serial No. 15/675,409

Filed August 11, 2017

Confirmation No. 6105

For HANGER FOR FIRE SEPARATION WALL

Examiner James Terrence

November 1, 2018

AMENDMENT D (w/ AFCP 2.0 Request)

TO THE COMMISSIONER FOR PATENTS,

In response to the Final Office action mailed September 5, 2018, please enter the following amendments and consider the following remarks.

Amendments to the Claims are reflected in the listing of claims that begins on page 2 of this paper.

Remarks begin on page 7 of this paper.

CERTIFICATION AND REQUEST FOR CONSIDERATION UNDER THE AFTER FINAL CONSIDERATION PILOT PROGRAM 2.0		
Practitioner Docket No.: MLP 7708.USC1	Application No.: 15/675,409	Filing Date: August 11, 2017
First Named Inventor: Steven Brekke	Title: HANGER FOR FIRE SEPARATION WALL	
<p>APPLICANT HEREBY CERTIFIES THE FOLLOWING AND REQUESTS CONSIDERATION UNDER THE AFTER FINAL CONSIDERATION PILOT PROGRAM 2.0 (AFCP 2.0) OF THE ACCOMPANYING RESPONSE UNDER 37 CFR 1.116.</p> <ol style="list-style-type: none"> 1. The above-identified application is (i) an original utility, plant, or design nonprovisional application filed under 35 U.S.C. 111(a) [a continuing application (<i>e.g.</i>, a continuation or divisional application) is filed under 35 U.S.C. 111(a) and is eligible under (i)], or (ii) an international application that has entered the national stage in compliance with 35 U.S.C. 371(c). 2. The above-identified application contains an outstanding final rejection. 3. Submitted herewith is a response under 37 CFR 1.116 to the outstanding final rejection. The response includes an amendment to at least one independent claim, and the amendment does not broaden the scope of the independent claim in any aspect. 4. This certification and request for consideration under AFCP 2.0 is the only AFCP 2.0 certification and request filed in response to the outstanding final rejection. 5. Applicant is willing and available to participate in any interview requested by the examiner concerning the present response. 6. This certification and request is being filed electronically using the Office's electronic filing system (EFS-Web). 7. Any fees that would be necessary consistent with current practice concerning responses after final rejection under 37 CFR 1.116, <i>e.g.</i>, extension of time fees, are being concurrently filed herewith. [There is no additional fee required to request consideration under AFCP 2.0.] 8. By filing this certification and request, applicant acknowledges the following: <ul style="list-style-type: none"> • Reissue applications and reexamination proceedings are not eligible to participate in AFCP 2.0. • The examiner will verify that the AFCP 2.0 submission is compliant, <i>i.e.</i>, that the requirements of the program have been met (see items 1 to 7 above). For compliant submissions: <ul style="list-style-type: none"> ○ The examiner will review the response under 37 CFR 1.116 to determine if additional search and/or consideration (i) is necessitated by the amendment and (ii) could be completed within the time allotted under AFCP 2.0. If additional search and/or consideration is required but cannot be completed within the allotted time, the examiner will process the submission consistent with current practice concerning responses after final rejection under 37 CFR 1.116, <i>e.g.</i>, by mailing an advisory action. ○ If the examiner determines that the amendment does not necessitate additional search and/or consideration, or if the examiner determines that additional search and/or consideration is required and could be completed within the allotted time, then the examiner will consider whether the amendment places the application in condition for allowance (after completing the additional search and/or consideration, if required). If the examiner determines that the amendment does not place the application in condition for allowance, then the examiner will contact the applicant and request an interview. <ul style="list-style-type: none"> ▪ The interview will be conducted by the examiner, and if the examiner does not have negotiation authority, a primary examiner and/or supervisory patent examiner will also participate. ▪ If the applicant declines the interview, or if the interview cannot be scheduled within ten (10) calendar days from the date that the examiner first contacts the applicant, then the examiner will proceed consistent with current practice concerning responses after final rejection under 37 CFR 1.116. 		
Signature /Steven N. Levitt/	Date November 1, 2018	
Name (Print/Typed) Steven N. Levitt	Practitioner Registration No. 76,498	
<p>Note: This form must be signed in accordance with 37 CFR 1.33. See 37 CFR 1.4(d) for signature requirements and certifications. Submit multiple forms if more than one signature is required, see below*.</p>		
<p>☒ * Total of <u>one</u> forms are submitted.</p>		

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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.
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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.

REMARKS

Claims 21, 32 and 42 are amended. Claim 41 is cancelled. Claims 31 and 40 have been withdrawn. No new matter is being added through these amendments. Upon entry of this amendment, claims 21-30, 32-39, 42 will be pending.

Response to Rejections under 35 U.S.C. § 112

Claim 41 is rejected under 35 U.S.C. § 112(a) and (b). Claim 41 is cancelled by this amendment for reasons unrelated to these rejections. Accordingly, Applicant respectfully requests these rejections be withdrawn.

Response to Rejections under 35 U.S.C. § 103

Claims 21-23, 25-30, 32, 33, 35-39 and 42 are rejected under 35 U.S.C. § 103 as being unpatentable over Leek (U.S. 2002/0078656) in view of Carlson (U.S. 804, 451). Applicant respectfully requests reconsideration of these rejections in view of the amendments to claims 21, 32 and 42 and the comments below.

Claim 21 is amended and recites, in part:

A hanger for connecting a structural component to a wall adapted to have sheathing mounted thereon, the hanger comprising:

a channel-shaped portion configured to receive the structural component, the channel-shaped portion including . . . a back wall . . .;

a connection portion including . . . a back flange . . ., the back flange of the connection portion facing the back wall of the channel-shaped portion and the back flange and back wall defining a space sized to receive the sheathing between the back flange and the back wall; and

an extension portion extending from the channel-shaped portion to the connection portion and interconnecting the channel-shaped portion and the connection portion, the extension portion separating the back wall of the channel-shaped portion from the back flange of the connection portion to define the space sized to receive the sheathing;

wherein the back wall lies in a first plane and the back flange lies in a second plane parallel to the first plane, the first and second planes being spaced apart by a distance sized large enough to permit two layers of 5/8 inch thick sheathing to be received in the space, but too small to permit three layers of 5/8 inch thick sheathing to be received in the space.

For example, a non-limiting embodiment of a hanger encompassed within the scope of claim 1 is shown below in Fig. 2. In this embodiment, the hanger 26 includes a channel-shaped portion 38 that has a back wall 48 lying in a first plane and a connection portion 42 that has a back flange 66 lying in a second plane. The back wall 48 and back flange 66 define the space 68 that can receive the sheathing 34. An extension portion 40 has extension flanges 60 that span between and interconnect the back wall 48 and the back flange 66. As described in paragraphs [0055] and [0084] of the Applicant's disclosure, the extension portion 40 spaces apart the first and second planes by a distance sized large enough to permit two layers of 5/8 inch thick sheathing 34 to be received in the space 68, as shown in Fig. 1. Receiving the sheathing 34 between the back wall 48 and back flange 66 enables the hanger 26 to maintain the fire retardant characteristics of the fire separation wall 28.

FIG. 1

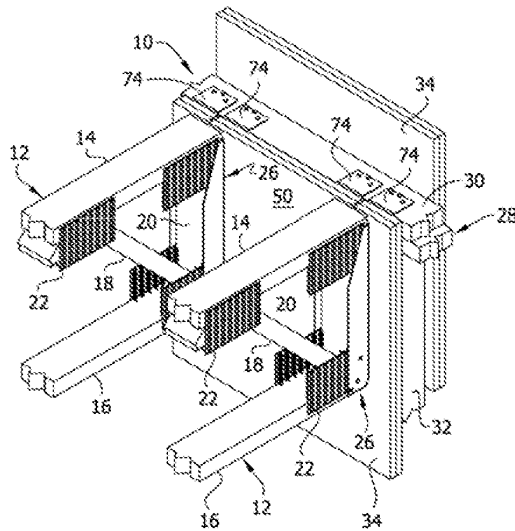
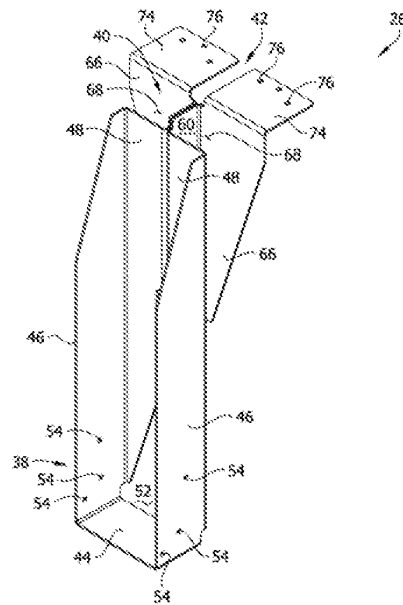


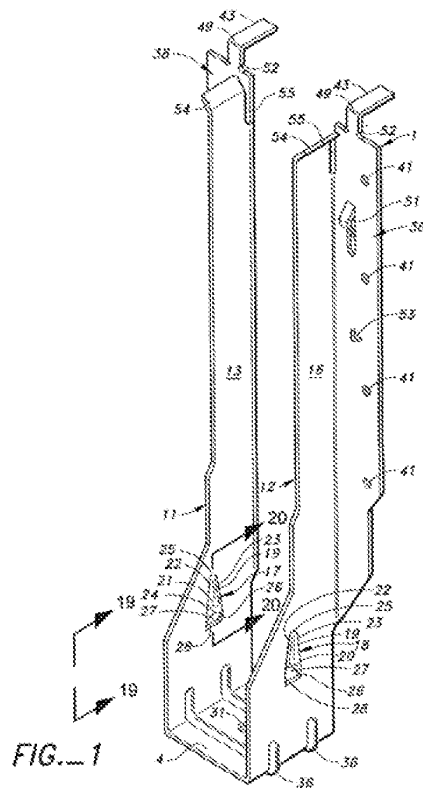
FIG. 2



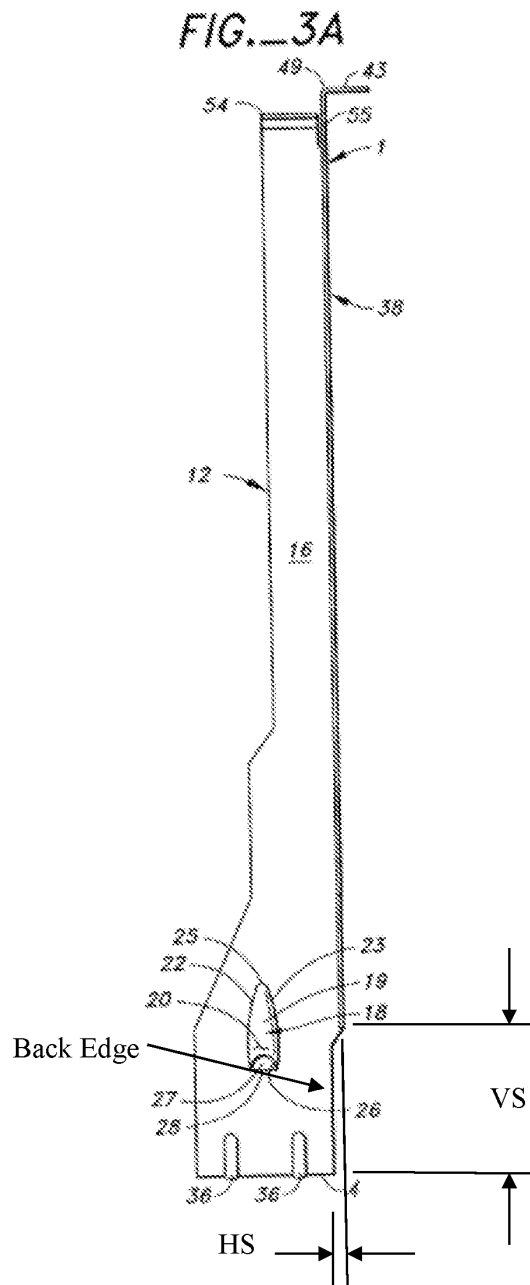
Claim 21 is submitted as nonobvious and patentable over Leek and Carlson because the references fail to disclose or suggest, alone or in combination, a back wall lying in a first plane, a back flange lying in a second plane, *the first and second planes being spaced apart by a distance sized large enough to permit two layers of 5/8 inch thick sheathing to be received in*

the space between the back flange and back wall, but too small to permit three layers of 5/8 inch thick sheathing to be received in the space.

The Office cites Leek as generally disclosing an extension portion that spaces a channel-shaped portion apart from a connection portion to define a space sized to receive sheathing therein. Office Action, p. 4-5. However, Leek, even if modified according to the teachings of Carlson, fails to show or suggest a hanger having a back wall and a back flange spaced apart by a distance to define a space large enough *to permit two layers of 5/8 inch thick sheathing to be received in the space*, between the back wall and back flange. As shown below in Fig. 1, Leek discloses a hanger that has a seat 4 that receives an I-joist. Side walls 11, 12 extend up from opposite edges of the seat 4 and back flanges 38 extend laterally outward from back edges of the side walls 11, 12. The Office equates the surfaces 13, 16 of the side walls 11, 12 of Leek as the claimed extension portion and the back flanges 38 of Leek as the claimed back flange. Office Action, p. 4-5. The Office states that the extension portion "separat[es] the back edge of the channel-shaped portion from the back flange of the connection portion to define the space to receive the sheathing (the extension portion space the channel shaped portion apart from the connection portion vertically and horizontally)." Office Action, p. 4-5.



In order to understand this "space" of Leek, reference is made to the annotated Fig. 3A of Leek produced below.



As best understood, a horizontal separation HS and a vertical separation VS of the back edge (which in the Office's analysis corresponds to the location of the back wall) from the back flanges are as annotated on Fig. 3A of Leek above. Together this horizontal separation HS and vertical separation VS are presumed to define the "space" which is sized to receive sheathing between the back wall and back flanges of Leek.

In dismissing Applicant's previous arguments that this "space" of Leek is not sized to receive sheathing, the Office said "the claim[s] do[] not provide limitations regarding the size of sheathing" and a "space with no size limit could be any space...including the space [of Leek]." Office Action, p. 15, 17. The Office further indicated that any sheathing "thin enough to fit in the space" of Leek meets the limitations of the claims as written. Office Action, p. 18. Applicant has amended claim 21 in response to these comments made by the Office and claim 21 now provides limitations regarding the size of the sheathing and the space. Specifically, claim 21 now recites, "the back wall lies in a first plane and the back flange lies in a second plane parallel to the first plane, the first and second planes being *spaced apart by a distance sized large enough to permit two layers of 5/8 inch thick sheathing to be received in the space.*" There is no disclosure or suggestion by Leek that the side wall 11, 12 separates the back edge from the back flange 38 by a distance large enough *to permit two layers of 5/8 inch thick sheathing* to be received in this "space" of Leek. In fact, there is nothing in Leek that would disclose or suggest to a person having ordinary skill in the art that anything, including two layers of 5/8 inch thick sheathing, would be received in the tiny space shown above. In addition, there is also no reason for a person having ordinary skill in the art to modify the size of the "space" of Leek when nothing is received in this "space." The only reason to modify the "space" of Leek to receive two layers of 5/8 inch thick sheathing is hindsight reasoning, based on information cleaning from Applicant's disclosure.

Accordingly, for at least these reasons, amended claim 21 is patentable over Leek and Carlson. Claims 22-31 and 41 depend from claim 21 and are patentable over Leek and Carlson for at least the same reasons as claim 21.

Similarly, claim 32 is amended and recites, in part, "the extension portion spacing the side panels from the back flange by a distance sized large enough to permit two layers of 5/8 inch thick wallboard to be received between the side panels and the back flange, but too small to permit three layers of 5/8 inch thick wallboard to be received between the side panels and the back flange." Likewise, claim 42 is amended and recites, in part, "the extension portion spacing the side panels from the back flange by a distance sized large enough to permit two layers of 5/8 inch thick wallboard to be received between the back panel plane and the back flange plane, but too small to permit three layers of 5/8 inch thick wallboard to be received between the back panel plane and the back flange plane." Accordingly, for at least the same reasons as claim 21,

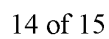
claims 32 and 42 are patentable over Leek and Carlson. Claims 33-40 depend from claim 32 and are patentable over Leek and Carlson for at least the same reasons as claim 32.

Claims 24 and 34 are rejected under 35 U.S.C. § 103 as being unpatentable over Leek in view of Carlson in view of Lehman (U.S. 478,163). Claims 24 and 34 depend from claims 21 and 32, respectively. Applicant submits that Lehman does not cure the deficiencies of Leek and Carlson, as described above in relation to claim 21. Accordingly, for at least this reason, Applicant submits that claims 24 and 34 are patentable over Leek, Carlson, and Lehman.

Rejoinder of claims 31 and 40 is again respectfully requested.

In addition to the foregoing, Applicant respectfully asks the Office to carefully reconsider Applicant's previous argument regarding claim 21 presented on page 11 of Amendment B, as Applicant believes the Office has misunderstood the argument.¹ As a summary, Applicant is contending that because Leek shows the back flange 38 extending from the side wall 12 in a first direction and that, as modified by Carlson, the added back wall to the hanger of Leek would extend in a second direction *opposite to the first direction* from the same side wall 12. This is illustrated in annotated Fig. 2A below by the rectangular shadow feature added to the figure. There is no portion of the back flange 38 and added back wall that would *overlap* one another. Accordingly, the combination of Leek and Carlson fails to disclose or suggest "a space sized to receive the sheathing *between the back flange and the back wall.*" Claim 21 is submitted as patentable for this additional reason.

¹ The Office responded to this argument by saying "the claim as written requires a 'space sized to receive a sheathing' the claim does not provide limitations regarding the size of sheathing." However, Applicant was not arguing in this section about the size of the space that receives the sheathing. Instead, Applicant was explaining that the combination of Leek and Carlson does not result in a hanger that has a construction that meets the claimed limitation of "receiv[ing] the sheathing *between the back flange and the back wall.*"



CONCLUSION

Applicants respectfully request consideration and allowance of the claims of the present application.

The Commissioner is hereby authorized to charge any underpayment and credit any overpayment of government fees in connection with this application to Deposit Account No. 19-4409.

Respectfully submitted,

/Kurt F. James/

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Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

Claims 1-20. (Canceled)

21. (Currently Amended) A hanger for connecting a structural component to a wall adapted to have sheathing mounted thereon, the hanger comprising:

a channel-shaped portion configured to receive the structural component, the channel-shaped portion including a bottom wall, side panels extending from opposite edges of the bottom wall and a back wall, the bottom wall, side panels and back wall being sized and arranged to receive an end of the structural component for supporting the end of the structural component;

a connection portion including a top flange extending away from the back wall of the channel-shaped portion in a direction opposite to the bottom wall of the channel-shaped portion, the top flange being configured for attachment to a top surface of a top plate of the wall, the connection portion further including a back flange extending from an edge of the top flange in a direction toward a plane of the bottom wall of the channel-shaped portion, the back flange of the connection portion facing the back wall of the channel-shaped portion and the back flange and back wall defining a space sized to receive the sheathing between the back flange and the back wall; and

an extension portion extending from the channel-shaped portion to the connection portion and interconnecting the channel-shaped portion and the connection portion, the extension portion separating the back wall of the channel-shaped portion from the back flange of the connection portion to define the space sized to receive the sheathing[.,.];

wherein the back wall lies in a first plane and the back flange lies in a second plane parallel to the first plane, the first and second planes being spaced apart by a distance sized large enough to permit two layers of 5/8 inch thick sheathing to be received in the space, but too small to permit three layers of 5/8 inch thick sheathing to be received in the space.

22. (Previously presented) A hanger as set forth in claim 21 wherein the side panels each include a rearward edge, a portion of the rearward edge of at least one of the side panels being in opposed, spaced apart relation with the back flange.

23. (Previously presented) A hanger as set forth in claim 22 wherein the extension portion comprises a first extension flange and a second extension flange, the first and second extension flanges being parallel to one another.

24. (Previously presented) A hanger as set forth in claim 23 wherein the first and second extension flanges are in face-to-face engagement with each other.

25. (Previously presented) A hanger as set forth in claim 22 wherein the first and second extension flanges are connected to the channel-shaped portion at an end of the channel-shaped portion opposite an end where the bottom wall is located.

26. (Previously presented) A hanger as set forth in claim 21 wherein the top flange comprises a first connector tab and a second connector tab, the first and second connector tabs being spaced apart from each other.

27. (Previously presented) A hanger as set forth in claim 26 wherein the back flange constitutes a first back flange, the hanger further comprising a second back flange, the first back flange depending from the first connector tab and the second back flange depending from the second connector tab.

28. (Previously presented) A hanger as set forth in claim 27 wherein the extension portion comprises a first extension flange and a second extension flange, the first back flange being connected to the first extension flange along a line parallel to the side panels and the second back flange being connected to the second extension flange along a line parallel to the side panels.

29. (Previously presented) A hanger as set forth in claim 21, wherein the channel-shaped portion, extension portion, and connection portion are formed as one-piece of material.

30. (Previously presented) A hanger as set forth in claim 21, wherein the back wall comprises a first back panel and a second back panel, the first back panel extending from a first of the side panels and the second back panel extending from a second of the side panels toward the first back panel.

31. (Withdrawn) A hanger as set forth in claim 21, wherein the channel-shaped portion is disposed with respect to the extension portion to mount the structural component at a non-orthogonal angle relative to the wall.

32. (Currently Amended) A joist hanger for connecting a joist to a wall adapted to have fire resistant wallboard mounted thereon, the joist hanger comprising:

a channel-shaped portion configured to receive the joist, the channel-shaped portion including a base sized and shaped for receiving an end of the joist thereon to support the joist, side panels extending upward from the base generally perpendicular to the base, and back panels extending perpendicularly toward each other from respective ones of the side panels;

an extension portion extending from the channel-shaped portion and configured to extend through the fire resistant wallboard, the extension portion including extension flanges, each of the extension flanges extending away from the base of the channel-shaped portion; and

a connection portion including a top flange extending away from the back panels of the channel-shaped portion in a direction opposite to the base of the channel-shaped portion, the top flange being configured for attachment to a top surface of a top plate of the wall, the connection portion further including a back flange extending from an edge of the top flange in a direction toward a plane of the base of the channel-shaped portion, the extension portion spacing the side panels from the back flange by a distance sized large enough to permit two layers of 5/8 inch thick wallboard to be received ~~for receiving the wallboard~~ between the side panels and the back flange, but too small to permit three layers of 5/8 inch thick wallboard to be received between the side panels and the back flange.

33. (Previously presented) A joist hanger as set forth in claim 32 wherein the extension flanges are parallel to one another.

34. (Previously presented) A joist hanger as set forth in claim 33 wherein the extension flanges are in face-to-face engagement with each other.

35. (Previously presented) A joist hanger as set forth in claim 32 wherein the extension flanges are connected to the channel-shaped portion at an end of the channel-shaped portion opposite an end where the base is located.

36. (Previously presented) A joist hanger as set forth in claim 32 wherein the top flange comprises a first connector tab and a second connector tab, the first and second connector tabs being spaced apart from each other.

37. (Previously presented) A joist hanger as set forth in claim 36 wherein the back flange constitutes a first back flange, the hanger further comprising a second back flange, the first back flange depending from the first connector tab and the second back flange depending from the second connector tab.

38. (Previously presented) A joist hanger as set forth in claim 37 wherein the first back flange is connected to a first of the extension flanges along a line parallel to the side panels and the second back flange is connected to a second of the extension flanges along a line parallel to the side panels.

39. (Previously presented) A joist hanger as set forth in claim 32, wherein the channel-shaped portion, extension portions, and connection portion are formed as one piece of material.

40. (Withdrawn) A hanger as set forth in claim 32, wherein the channel-shaped portion is disposed with respect to the extension portion to mount the structural component at a non-orthogonal angle relative to the wall.

41. (Cancelled)

42. (Currently Amended) A joist hanger for connecting a joist to a wall adapted to have fire resistant wallboard mounted thereon, the joist hanger comprising:

a channel-shaped portion configured to receive the joist, the channel-shaped portion including a base sized and shaped for receiving an end of the joist thereon to support the joist, side panels extending upward from the base generally perpendicular to the base, and back panels extending perpendicularly toward each other from respective ones of the side panels, the back panels having rearward surfaces lying in a back panel plane;

an extension portion extending from the channel-shaped portion and configured to extend through the fire resistant wallboard, the extension portion including extension flanges, each of the extension flanges extending away from the base of the channel-shaped portion; and

a connection portion including a top flange extending away from the back panels of the channel-shaped portion in a direction opposite to the base of the channel-shaped portion, the top flange being configured for attachment to a top surface of a top plate of the wall, the connection portion further including a back flange extending from an edge of the top flange in a direction toward a plane of the base of the channel-shaped portion, the back flange having a front surface lying in a back flange plane, the extension portion spacing the side panels from the back flange by a distance sized large enough to permit two layers of 5/8 inch thick wallboard to be received for receiving the wallboard between the back panel plane and the back flange plane, but too small to permit three layers of 5/8 inch thick wallboard to be received between the back panel plane and the back flange plane.



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15/675,409	08/11/2017	Steven Brekke	MLP 7708.USC1	6105
321	7590	09/05/2018	EXAMINER	
SENNIGER POWERS LLP 100 NORTH BROADWAY 17TH FLOOR ST LOUIS, MO 63102			MINTER, KEITH	
			ART UNIT	PAPER NUMBER
			3635	
			NOTIFICATION DATE	DELIVERY MODE
			09/05/2018	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):

uspatents@senniger.com

DETAILED ACTION

1. An amendment was received from applicant on 04/12/2018. Claims 21-23 are amended and new claim 41 is added by this amendment.
2. A supplemental amendment was received from applicant on 06/19/2018. This amendment (Supplemental) amends claim 32 and adds new claim 42.

Notice of Pre-AIA or AIA Status

3. The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

Information Disclosure Statement

4. The IDS filed 03/09/2018 and 04/17/2018 have been considered. An initialed copy of the 1449 form is attached.

Claim Rejections - 35 USC § 112

5. The following is a quotation of 35 U.S.C. 112(b):

(B) CONCLUSION. — The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the inventor or a joint inventor regards as the invention.

The following is a quotation of 35 U.S.C. 112 (pre-AIA), second paragraph:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 41 is rejected under 35 U.S.C. 112(b) or 35 U.S.C. 112 (pre-AIA), second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the inventor or a joint inventor, or for pre-AIA the applicant regards as the invention.
7. Claim 41 recites the limitation “wherein the back wall lies in a first plane and the back flange lies in second plane parallel to the first plane, the first and second planes being separated by at least 5/8 inch.” creates an undefined upper limit of the dimension which creates a 112(b) indefinite issue. Also

the Specification does not support the undefined upper limit. Examiners advised the use of limitations/ language in the Specification [0053] and [0082] to define the two layer of 5/8 inch board.

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

(a) IN GENERAL.—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 or joint inventor of carrying out the invention.

The following is a quotation of the first paragraph of pre-AIA 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.

Claim 41 rejected under 35 U.S.C. 112(a) or 35 U.S.C. 112 (pre-AIA), first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor or a joint inventor, or for pre-AIA the inventor(s), at the time the application was filed, had possession of the claimed invention. The Specification [0053] and [0082] discusses 2 layers of 5/8 inch board, which does not support the undefined upper limit nor the new limitation “planes being separated by at least 5/8 inch.”.

Claim Rejections - 35 USC § 103

9. In the event the determination of the status of the application as subject to AIA 35 U.S.C. 102 and 103 (or as subject to pre-AIA 35 U.S.C. 102 and 103) is incorrect, any correction of the statutory basis for the rejection will not be considered a new ground of rejection if the prior art relied upon, and the rationale supporting the rejection, would be the same under either status.

10. The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent for a claimed invention may not be obtained, notwithstanding that the claimed invention is not identically disclosed as set forth in section 102 of this title, if the differences between the claimed invention and the prior art are such that the claimed invention as a whole would have been obvious before the effective filing date of the claimed invention to a person having ordinary skill in the art to which the claimed invention pertains. Patentability shall not be negated by the manner in which the invention was made.

11. **Claims 21-23, 25-30, 32-33, 35-39, and 42 are rejected under 35 U.S.C. 103 as being unpatentable over Leek et al. (US 2002/0078656) in view of Carlson (US 804,451).**

With respect to claims 21 and 42 Leek et al. provides a hanger for connecting a structural component (fire resistant wallboard) to a wall adapted to have sheathing mounted thereon, the hanger comprising:

a channel-shaped portion configured to receive the structural component, the channel shaped portion including a bottom wall (4), side panels (11, 12) extending from opposite edges of the bottom wall and a back edge, the bottom wall, side panels and back edge being sized and arranged to receive an end of the structural component (joist 2) for supporting the end of the structural component;

a connection portion including a top flange (43, 43) extending away from the back edge of the channel-shaped portion in a direction opposite to the bottom wall of the channel-shaped portion, the top flange being configured for attachment to a top surface of a top plate of the wall, the connection portion further including a back flange (38, 38) extending from an edge of the top flange in a direction toward a plane of the bottom wall of the channel-shaped portion, the back flange of the connection portion facing the back edge of the channel-shaped portion and the back flange and back edge defining a space sized to receive the sheathing between the back flange and the back wall; and

an extension portion (13, 16) extending from the channel-shaped portion to the connection portion and interconnecting the channel-shaped portion and the connection portion, the extension

portion separating the back edge of the channel-shaped portion from the back flange of the connection portion to define the space sized to receive the sheathing (the extension portion space the channel-shaped portion apart from the connection portion vertically and horizontally).

Leek et al. does not provide a back wall of the channel-shaped portion, the back flange of the connection portion facing the back wall of the channel-shaped portion and the back flange and back wall defining a space sized to receive the sheathing between the back flange and the back wall. Carlson teaches a hanger with a channel-shape portion including a bottom wall (1), side panels (2, 2) extending from opposite edges of the bottom wall and a back wall (4, 4) to provide a maximum degree of strength (lines 40-45) to securely hold a structural member and prevent movement toward the wall. It would have been obvious to a person having ordinary skill in the art to modify the device of Leek et al. and provide a back wall (4, 4) to the channel-shaped portion to provide a maximum degree of strength to securely hold a structural member and prevent movement toward the wall, as taught by Carlson. Leek et al. as modified by Carlson provides a back wall (4, 4) across the back edge of the channel-shaped portion defining a space between the back flange and the back wall.

Regarding Claim 42 Leek et al. as modified by Carlson provides the back panels rearward surfaces lying in a back panel plane (plane of the back edge of the channel-shaped portion) and the back flange (38) having a front surface lying in a back flange plane (plane of the back flange), the extension portion (13, 16) spacing the side panels from the back flange for receiving the wallboard between the back panel plane and the back flange plane (the extension portion (13, 16) creates a space between the plane of the back flange and the plane of the back edge of the channel-shaped portion).

With respect to claim 22 Leek et al. provides the side panels each include a rearward edge, a portion of the rearward edge of at least one of the side panels being in opposed, spaced apart relation with the back flange (the back flange 38 is in an opposed, spaced apart relationship with the rearward back edge of the side panels).

With respect to claim 23 Leek et al. provides the extension portion comprises a first extension flange (13) and a second extension flange (16) the first (13) and second (16) extension flanges are parallel to one another (as shown in figure 18).

With respect to claim 25 Leek et al. provides the first (13) and second (16) extension flanges are connected to the channel-shaped portion (27, 30, 31) at an end (top of channel-shaped portion) of the channel-shaped portion opposite an end where the bottom wall (bottom of channel-shaped portion) is located.

With respect to claim 26 Leek et al. provides the top flange comprises a first connector tab (43) and a second connector tab (43), the first and second connector tabs being spaced apart from each other (as shown in figure 18).

With respect to claim 27 Leek et al. provides the back flange constitutes a first back flange (38), the hanger further comprising a second back flange (38), the first back flange depending from the first connector tab (43) and the second back flange depending from the second connector tab (43).

With respect to claim 28 Leek et al. provides the extension portion comprises a first extension flange (13) and a second extension flange (16), the first back flange being connected to the first extension flange along a line parallel to the side panels (line extending notch 55) and the second back flange being connected to the second extension flange along a line parallel to the side panels (line extending notch 55).

With respect to claim 29 Leek et al. provides the channel-shaped portion, extension portion, and connection portion are formed as one-piece of material [00129].

With respect to claim 30 Leek et al. as modified by Carlson provides in claim 21 the back wall comprises a first back panel (4) and a second back panel (4), the first back panel extending from a first of the side panels and the second back panel extending from a second of the side panels toward the first back panel (as shown in figure 1 of Carlson).

With respect to claim 32 Leek et al. provides a joist hanger for connecting a joist to a wall adapted to have fire resistant wallboard mounted thereon, the joist hanger comprising:

a channel-shaped portion configured to receive the joist, the channel-shaped portion including a base (4) sized and shaped for receiving an end of the joist thereon to support the joist, side panels (11, 12) extending upward from the base generally perpendicular to the base, and

an extension portion (13, 16) extending from the channel-shaped portion and configured to extend through the fire resistant wallboard, the extension portion including extension flanges (13, 16), each of the extension flanges extending away from the base of the channel-shaped portion (the extension portion space the channel-shaped portion apart from the connection portion vertically and horizontally); and

a connection portion (38, 43) including a top flange (43) extending away from the back panel of the channel-shaped portion in a direction opposite to the base of the channel-shaped portion, the top flange being configured for attachment to a top surface of a top plate of the wall, the connection portion further including a back flange (38) extending from an edge of the top flange in a direction toward a plane of the base of the channel-shaped portion, the extension portion spacing the side panels from the back flange for receiving the wallboard between the side panels and the back flange.

Leek et al does not provide back panels extending perpendicularly toward each other from respective ones of the side panels. Carlson teaches a hanger with a channel-shape portion including a bottom wall (1), side panels (2, 2) extending from opposite edges of the bottom wall and a back wall (4, 4) to provide a maximum degree of strength (lines 40-45) to securely hold a structural member and prevent movement toward the wall. It would have been obvious to a person having ordinary skill in the art to modify the device of Leek et al. and provide a back wall (4,4) to the channel-shaped portion to

provide a maximum degree of strength to securely hold a structural member and prevent movement toward the wall, as taught by Carlson.

With respect to claim 33 Leek et al. provides the extension flanges (13, 16) are parallel to one another (as shown in figure 18).

With respect to claim 35 Leek et al. provides the first (13) and second (16) extension flanges (13, 16) are connected to the channel-shaped portion (27, 30, 31) at an end (top of channel-shaped portion) of the channel-shaped portion opposite an end where the bottom wall (bottom of channel-shaped portion) is located.

With respect to claim 36 Leek et al. provides the top flange comprises a first connector tab (43) and a second connector tab (43), the first and second connector tabs being spaced apart from each other (as shown in figure 18).

With respect to claim 37 Leek et al. provides the back flange constitutes a first back flange (38), the hanger further comprising a second back flange (38), the first back flange depending from the first connector tab (43) and the second back flange depending from the second connector tab (43).

With respect to claim 38 Leek et al. provides the first back flange being connected to the first extension flange along a line parallel to the side panels (line extending notch 55) and the second back flange being connected to the second extension flange along a line parallel to the side panels (line extending notch 55).

With respect to claim 39 Leek et al. provides the channel-shaped portion, extension portion, and connection portion are formed as one-piece of material [00129].

12. Claims 24 and 34 are rejected under 35 U.S.C. 103 as being unpatentable over Leek et al. (US 2002/0078656) in view of Carlson (US 804,451) as applied to claims 23 and 33 above and further in view of Lehman (US 478,163).

With respect to claims 24 and 34 Leek et al. as modified by Carlson does not provide the first and second extension flanges are in face-to-face engagement with each other. Lehman teaches a hanger with extension portions (E; Fig 2) in a face to face engagement with each other to form a Lug at the rear for attaching the hanger (Claim 3). It would have been obvious to a person having ordinary skill in the art to modify the device of Leek et al. in view of Carlson and provide extension portions (E; Fig 2) in a face to face engagement with each other to form a Lug at the rear for attaching the hanger, as taught by Lehman.

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

Response to Arguments

14. Applicant's arguments filed 04/18/2018 have been fully considered but they are not persuasive.

Applicant argues

Claim 21 is submitted as nonobvious and patentable over Leek, U.S. Publ. No. 2002/0078656 and Carlson, U.S. Pat. No. 804,451 in that the combination does not provide a space defined by the back wall and the back flange **that is sized to receive sheathing between the back flange and the back wall**, as required by claim 21.

Leek, even if modified according to Carlson fails to show or suggest a hanger having a back wall and a back flange separated by an extension portion to define a space sized to receive sheathing between the back flange and back wall....

The office has stated that the extension portion (specified by the Office as parts 13, 16 in Leek) "separates] the back edge of the channel-shaped portion from the back flange of the connection portion to define the space to receive the sheathing (the extension portion space the channel-shaped portion apart from the connection portion vertically and horizontally)." Id. at p. 5. In

Assuming without conceding that sheathing could be put into the space defined by VS and HS,
this space cannot "receive the sheathing between the back flange and the back wall" as required
by claim 21. Sheathing received in this space would have a first surface next to the back edge of
the hanger and a second, adjacent surface, which is perpendicular to the first surface, next to
the back flange. By no reasonable interpretation of the word "between" does Leek have a space
to receive sheathing between the back edge and the back flange. Broadest reasonable
interpretation "is not just the broadest construction, but rather the broadest reasonable
construction in light of the specification." In re Man Interface Technologies LLC, 822 F.3d 1282,

1284 (Fed. Cir. 2016) (citing Microsoft Corp. v. Proxycon, Inc., 789 F.3d 1292, 1298 (Fed. Cir. 2015)). It is not permissible to simply construe claim language as broadly as conceivable without reference to the specification. In particular, as in In re Man Technologies, interpretation of the claim term without reference to the specification was found to be in error. Id. The applicant's specification shows that when receiving is received in the space 68, the back wall 48 and the back flange are positioned on opposite sides of the sheathing. For example, in Fig. 10A it may be seen that the sheathing 34 is received between the back wall 48 and the back flange 66 (covered by the sheathing, but just below the inner edge of the top flanges 74). The back wall 48 engages a side of the sheathing 34 which is opposite to the side of the sheathing engaged by the back flange.

Moreover, there is nothing in Leek that would suggest to the person of ordinary skill in the art that anything, let alone sheathing would be received in the tiny space shown above. It is not reasonable to interpret sheathing as being of any size or configuration so as to conform to this tiny space. The specification makes it clear that sheathing refers to materials that are used to cover frame walls in a house or building. A specific example of one embodiment is 5/8 inch gypsum board. Application, [0055].

The person of ordinary skill in the art understands that the size and shape of the sheathing corresponds to wallboard such as gypsum board which has a rectangular parallelepiped configuration of a size to function as wall board. Given the proper understanding of the terms "sheathing," "space," "receive" and "between," the person of ordinary skill in the art knows that the extremely small space shown by Leek is not a spaced sized to receive sheathing between the back wall and back flange of the hanger, as required by claim 21.

It is permissible to define the space in reference to the article received in that space. The Federal Circuit has held that a limitation in a claim based on an environmental feature is permissible. *Orthokinetics Inc. v. Safety Travel Chairs Inc.*, 1 U.S.P.Q. 1081, 1088 (Fed. Cir. 1986). In that case, a claim limitation which defined the dimension of a front leg of a car seat in terms of being insertable through the door frame of an automobile to be definite and capable of positively limiting the claim. Accordingly, the size of the space in the present application may be defined in terms of the sheathing that is received within it to a position in which the sheathing is between the back panel and back flange must be found in a prior art reference in order to render the claim unpatentable. The person of ordinary skill in the art of hangers connecting structural components understand that sheathing is of a certain size suitable for serving as wallboard, being for example on the order of 5/8" thick.

Accordingly, claim 21 is submitted as nonobvious and patentable over Leek and Carlson. Claims 22-31 and 41, depending directly or indirectly from claim 21 are submitted as patentable for the same reasons as claim 21.

In addition, claim 22 further requires that "the side panels each include a rearward edge, a portion of the rearward edge of at least one of the side panels being in opposed, spaced apart relation with the back flange." Claim 22 further defines the relationship of the channel-shaped portion and the back flange so that the sheathing may be received between the channel-shaped portion and the back flange.

(Rearward edge of side panel in opposed, spaced apart relation with the back flange).

As best understood, the side panels 11, 12 of the channel-shaped portion of Leek end where the back flanges 38 begin. Above this point, the parts 13, 16 of the side panels 11, 12 are said by the Office to be the "extension portion." Under the Office's interpretation of Leek, the rearward

edges of the side panels 11, 12 are always below the back flanges 38 and no portion of either rearward edge is in opposed, spaced apart relation with the back flanges.

New claim 41 further specifies that "the back wall lies in a first plane and the back flange lies in second plane parallel to the first plane, the first and second planes being separated by at least 5/8 inch." Claim 41 provides a measurement to define the lower boundary of the space between the back wall and the back flange that receives the sheathing. Leek and the other art of record fail to show or suggest a spacing that receives sheathing of at least this size. There is no lack of clarity in specifying only the lower boundary. As filed, claim 21 specified no dimensions at all, meaning the space could be of any size consistent with the understanding of a person of ordinary skill in the art for the use of a hanger claimed. Specifying the lower end of the size range does not suddenly render the upper end indefinite by not also being defined. The person of ordinary skill in the art readily understand how large the space could be without having to be given an upper boundary (which was not present in the original claims in any event).

Accordingly, claim 41 is nonobvious and patentable for the additional reason that Leek fails to show or suggest a space between the back wall and the back flange that is at least 5/8 inch.

Claim 32 is submitted as nonobvious and patentable over Leek and Carlson in that the combination fails to show or suggest that **the extension portion spaces the side panels from the back flange for receiving wallboard between the side panels and back flange.**

These requirements correspond to those of claim 1 and accordingly, claim 32 is submitted as patentable for the same reasons as claim 1.

In addition, claim 31 (**claim 32**) further requires that the extension portion be "configured to extend through the fire resistant wallboard." A term "configured to" should be interpreted to mean that the extension portion must be designed for extending through a fire resistant wallboard. See, In re Man Technologies at 1286. Among other things, the extension portion must be configured so that in use it is sized and positioned to extend through the fire resistant wallboard. However, even if the term is improperly interpreted as "capable of" or "suitable for," Leek fails to show or suggest this feature. Again, the claims must be interpreted according to the understanding of a person of ordinary skill in the art giving consideration to how the terms are used in the specification. The specification of the current application shows that the extension portion 42 (including extension flanges 60) project rearward of the side panels and is large enough to extend completely through fire resistant wallboard. This is shown at Fig. 10A (reproduced above) and also described at paragraph [0060] and elsewhere.

Leek provides no contrary disclosure. The parts 13 and 16 of Leek, which are merely an upper part of the side walls 11,12 and are not shown or described as having an arrangement relative to the channel-shaped portion to extend through a wallboard. The back flanges 38 are shown as resting against a header. There is absolutely no indication that the parts 13, 16 are even capable of extending through fire resistant wallboard in any context that the person of ordinary skill in the art would understand that the hanger could be used. The parts 13, 16 are certainly not designed for extending through fire resistant wallboard. They are not located or sized relative to the channel-shaped portion to extend through the wallboard.

It is not reasonable in light of the specification to interpret the upper parts 13, 16 of the side walls 11 to be the claimed extension portion. When used as the person of ordinary skill understands, the parts 13, 16 would not extend through fire resistant wallboard. The parts 13,16 extend slightly to the rear of the channel-shaped portion, but the extent is far too small to

extend through fire resistant wallboard. Accordingly, Leek as combined with Carlson fails to show or suggest an extension portion configured to extend through fire resistant wallboard.

Accordingly, claim 31 is nonobvious and patentable over Leek and Carlson.

Examiner responds:

Regarding...

“...a space defined by the back wall and the back flange **that is sized to receive sheathing between the back flange and the back wall**,...Sheathing received in this space would have a first surface next to the back edge of the hanger and a second, adjacent surface, which is perpendicular to the first surface, next to the back flange. By no reasonable interpretation of the word "between" does Leek have a space to receive sheathing between the back edge and the back flange. Broadest reasonable interpretation "is not just the broadest construction, but rather the broadest reasonable construction in light of the specification....The person of ordinary skill in the art understands that the size and shape of the sheathing corresponds to wallboard such as gypsum board which has a rectangular parallelepiped configuration of a size to function as wall board. Given the proper understanding of the terms "sheathing, "space," "receive" and "between," the person of ordinary skill in the art knows that the extremely small space shown by Leek is not a space sized to receive sheathing between the back wall and back flange of the hanger”

the claim as written requires a “space sized to receive a sheathing” the claim does not provide limitations regarding the size of sheathing.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., The person of ordinary skill in the art understands that the size and shape of the sheathing corresponds to wallboard

such as gypsum board which has a rectangular parallelepiped configuration of a size to function as wall board) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding ...

"the side panels each include a rearward edge, a portion of the rearward edge of at least one of the side panels being in opposed, spaced apart relation with the back flange."

The device of Leek et al. provides the back flange 38 is in an opposed, spaced apart relationship with the rearward back edge of the side panels.

Applicant states...

"The device Claim 22 further defines the relationship of the channel-shaped portion and the back flange so that the sheathing may be received between the channel-shaped portion and the back flange."

However claim 22 does not discuss the sheathing being received in the space.

Looking at the Leek et al. device from a side profile view the rearward edge of side panel is in an opposed, spaced apart relation with the back flange because the channel shaped portion is opposite and spaced apart from flange of the connection portion.

Regarding New claim 41 further specifies that "the back wall lies in a first plane and the back flange lies in second plane parallel to the first plane, the first and second planes being separated by at least 5/8 inch." ...the 5/8 inch requirement is not supported by the specification. The Specification [0053] and [0082] discusses 2 layers of 5/8 inch board, which does not support the undefined upper limit nor the new limitation "planes being separated by at least 5/8 inch."

Regarding the undefined upper limit of the space ...

"There is no lack of clarity in specifying only the lower boundary. As filed, claim 21 specified no dimensions at all, meaning the space could be of any size consistent with the understanding of a person of ordinary skill in the art for the use of a hanger claimed. Specifying the lower end of the size range does not suddenly render the upper end indefinite by not also being defined. The person of ordinary skill in the art readily understand how large the space could be without having to be given an upper boundary (which was not present in the original claims in any event).

the space with no size limit could be any space...including the space as rejected by the Leek et al. reference. Once there is an attempt to define a space dimension by a lower limit only, then the upper limit becomes indefinite. Applicant's specification as filed provides for 2 layers of 5/8 inch board.

Regarding ...

"In addition, claim 31 (**claim 32**) further requires that the extension portion be "configured to extend through the fire resistant wallboard." A term "configured to" should be interpreted to mean that the extension portion must be designed for extending through a fire resistant wallboard....Among other things, the extension portion must be configured so that in use it is sized and positioned to extend through the fire resistant wallboard. However, even if the term is improperly interpreted as "capable of" or "suitable for," Leek fails to show or suggest this feature. Again, the claims must be interpreted according to the understanding of a person of ordinary skill in the art giving consideration to how the terms are used in the specification.

The specification of the current application shows that the extension portion 42 (including extension flanges 60) project rearward of the side panels and is large enough to extend completely through fire resistant wallboard... It is not reasonable in light of the specification to interpret the upper parts 13, 16 of the side walls 11 to be the claimed extension portion. When used as the person of ordinary skill understands, the parts 13, 16 would not

extend through fire resistant wallboard. The parts 13,16 extend slightly to the rear of the channel-shaped portion, but the extent is far too small to extend through fire resistant wallboard.”

the device of Leek et al. provides extension portions extending away from the connection portion and connection the channel shaped portion. If sheathing (thin enough to fit in the space) is applied to wall around the hanger, the extension portion will extend through the sheathing. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

Remarks

It should be noted, prior art to Gilb US 4261155 A also provides a spacing between 57 and 16 that is also capable to allow sheathing to pass behind, see for instance figure 2.

Conclusion

15. **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.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEITH MINTER whose telephone number is (571)270-5405. The examiner can normally be reached on 8:30 am to 5:00 pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSHUA J. MICHENER can be reached on (571)272-1467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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

/JOSHUA J MICHENER/
Supervisory Patent Examiner, Art Unit 3635

/KEITH MINTER/
Examiner, Art Unit 3635

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Steven Brekke

Art Unit 36335

Serial No. 15/675,409

Filed August 11, 2017

Confirmation No. 6105

For HANGER FOR FIRE SEPARATION WALL

Examiner Keith Minter

June 19, 2018

AMENDMENT C (Supplemental)

TO THE COMMISSIONER FOR PATENTS,

In response to the Office action mailed January 12, 2018, and supplementing Amendment B, filed April 12, 2018, please enter the following amendments and consider the following remarks.

Amendments to the Claims are reflected in the listing of claims that begins on page 2 of this paper.

Remarks begin on page 7 of this paper.

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

1-20. (Canceled)

21. (Previously presented) A hanger for connecting a structural component to a wall adapted to have sheathing mounted thereon, the hanger comprising:

a channel-shaped portion configured to receive the structural component, the channel-shaped portion including a bottom wall, side panels extending from opposite edges of the bottom wall and a back wall, the bottom wall, side panels and back wall being sized and arranged to receive an end of the structural component for supporting the end of the structural component;

a connection portion including a top flange extending away from the back wall of the channel-shaped portion in a direction opposite to the bottom wall of the channel-shaped portion, the top flange being configured for attachment to a top surface of a top plate of the wall, the connection portion further including a back flange extending from an edge of the top flange in a direction toward a plane of the bottom wall of the channel-shaped portion, the back flange of the connection portion facing the back wall of the channel-shaped portion and the back flange and back wall defining a space sized to receive the sheathing between the back flange and the back wall; and

an extension portion extending from the channel-shaped portion to the connection portion and interconnecting the channel-shaped portion and the connection portion, the extension portion separating the back wall of the channel-shaped portion from the back flange of the connection portion to define the space sized to receive the sheathing,

22. (Previously presented) A hanger as set forth in claim 21 wherein the side panels each include a rearward edge, a portion of the rearward edge of at least one of the side panels being in opposed, spaced apart relation with the back flange.

23. (Previously presented) A hanger as set forth in claim 22 wherein the extension portion comprises a first extension flange and a second extension flange, the first and second extension flanges being parallel to one another.

24. (Previously presented) A hanger as set forth in claim 23 wherein the first and second extension flanges are in face-to-face engagement with each other.

25. (Previously presented) A hanger as set forth in claim 22 wherein the first and second extension flanges are connected to the channel-shaped portion at an end of the channel-shaped portion opposite an end where the bottom wall is located.

26. (Previously presented) A hanger as set forth in claim 21 wherein the top flange comprises a first connector tab and a second connector tab, the first and second connector tabs being spaced apart from each other.

27. (Previously presented) A hanger as set forth in claim 26 wherein the back flange constitutes a first back flange, the hanger further comprising a second back flange, the first back flange depending from the first connector tab and the second back flange depending from the second connector tab.

28. (Previously presented) A hanger as set forth in claim 27 wherein the extension portion comprises a first extension flange and a second extension flange, the first back flange being connected to the first extension flange along a line parallel to the side panels and the second back flange being connected to the second extension flange along a line parallel to the side panels.

29. (Previously presented) A hanger as set forth in claim 21, wherein the channel-shaped portion, extension portion, and connection portion are formed as one-piece of material.

30. (Previously presented) A hanger as set forth in claim 21, wherein the back wall comprises a first back panel and a second back panel, the first back panel extending from a first of the side panels and the second back panel extending from a second of the side panels toward the first back panel.

31. (Withdrawn) A hanger as set forth in claim 21, wherein the channel-shaped portion is disposed with respect to the extension portion to mount the structural component at a non-orthogonal angle relative to the wall.

32. (Currently amended) A joist hanger for connecting a joist to a wall adapted to have fire resistant wallboard mounted thereon, the joist hanger comprising:

a channel-shaped portion configured to receive the joist, the channel-shaped portion including a base sized and shaped for receiving an end of the joist thereon to support the joist, side panels extending upward from the base generally perpendicular to the base, and back panels extending perpendicularly toward each other from respective ones of the side panels;

an extension portion extending from the channel-shaped portion and configured to extend through the fire resistant wallboard, the extension portion including extension flanges, each of the extension flanges extending away from the base of the channel-shaped portion; and

a connection portion including a top flange extending away from the back [panel] panels of the channel-shaped portion in a direction opposite to the base of the channel-shaped portion, the top flange being configured for attachment to a top surface of a top plate of the wall, the connection portion further including a back flange extending from an edge of the top flange in a direction toward a plane of the base of the channel-shaped portion, the extension portion spacing the side panels from the back flange for receiving the wallboard between the side panels and the back flange.

33. (Previously presented) A joist hanger as set forth in claim 32 wherein the extension flanges are parallel to one another.

34. (Previously presented) A joist hanger as set forth in claim 33 wherein the extension flanges are in face-to-face engagement with each other.

35. (Previously presented) A joist hanger as set forth in claim 32 wherein the extension flanges are connected to the channel-shaped portion at an end of the channel-shaped portion opposite an end where the base is located.

36. (Previously presented) A joist hanger as set forth in claim 32 wherein the top flange comprises a first connector tab and a second connector tab, the first and second connector tabs being spaced apart from each other.

37. (Previously presented) A joist hanger as set forth in claim 36 wherein the back flange constitutes a first back flange, the hanger further comprising a second back flange, the first back flange depending from the first connector tab and the second back flange depending from the second connector tab.

38. (Previously presented) A joist hanger as set forth in claim 37 wherein the first back flange is connected to a first of the extension flanges along a line parallel to the side panels and the second back flange is connected to a second of the extension flanges along a line parallel to the side panels.

39. (Previously presented) A joist hanger as set forth in claim 32, wherein the channel-shaped portion, extension portions, and connection portion are formed as one piece of material.

40. (Withdrawn) A hanger as set forth in claim 32, wherein the channel-shaped portion is disposed with respect to the extension portion to mount the structural component at a non-orthogonal angle relative to the wall.

41. (Previously presented) A hanger as set forth in claim 21 wherein the back wall lies in a first plane and the back flange lies in second plane parallel to the first plane, the first and second planes being separated by at least 5/8 inch.

42. (New) A joist hanger for connecting a joist to a wall adapted to have fire resistant wallboard mounted thereon, the joist hanger comprising:

a channel-shaped portion configured to receive the joist, the channel-shaped portion including a base sized and shaped for receiving an end of the joist thereon to support the joist, side panels extending upward from the base generally perpendicular to the base, and back panels extending perpendicularly toward each other from respective ones of the side panels, the back panels having rearward surfaces lying in a back panel plane;

an extension portion extending from the channel-shaped portion and configured to extend through the fire resistant wallboard, the extension portion including extension flanges, each of the extension flanges extending away from the base of the channel-shaped portion; and

a connection portion including a top flange extending away from the back panels of the channel-shaped portion in a direction opposite to the base of the channel-shaped portion, the top flange being configured for attachment to a top surface of a top plate of the wall, the connection portion further including a back flange extending from an edge of the top flange in a direction toward a plane of the base of the channel-shaped portion, the back flange having a front surface lying in a back flange plane, the extension portion spacing the side panels from the back flange for receiving the wallboard between the back panel plane and the back flange plane.

REMARKS

This Amendment C (Supplemental) is filed subsequent to Amendment B which has not yet been acted upon. This amendment presumes the entry of Amendment B and the claims are shown as amended from Amendment B. This Amendment C (Supplemental) amends claim 32 and adds new claim 42. No new matter is added and support for the subject matter of claim 42 can be found throughout the specification, claims, and drawings. Upon entry of this amendment, claims 21-29, 32-39, 41 and 42 will be pending.

Permission to charge Deposit Account No. 19-1345 for any fee required to consider this amendment, including without limitation the fee for claims in excess of 20, is granted.

Claim 32 is amended to correct a typographical error.

New Claim 42

New claim 42 tracks claim 32 closely except that claim 42 specifies that "the back panels [have] rearward surfaces lying in a back panel plane" and that "the back flange having a front surface lying in a back flange plane." Moreover, claim 42 further defines that "the extension portion [spaces] the side panels from the back flange for receiving the wallboard between the back panel plane and the back flange plane." Claim 42 is submitted as nonobvious and patentable over the references of record for the same reasons as given for claim 32.

Rejoinder of claim 40 is again respectfully requested.

CONCLUSION

Applicants respectfully request consideration and allowance of the claims of the present application.

The Commissioner is hereby authorized to charge any underpayment and credit any overpayment of government fees in connection with this application to Deposit Account No. 19-1345.

Respectfully submitted,

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KFJ:SNL/dss

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Steven Brekke

Art Unit 36335

Serial No. 15/675,409

Filed August 11, 2017

Confirmation No. 6105

For HANGER FOR FIRE SEPARATION WALL

Examiner Keith Minter

April 12, 2018

AMENDMENT B

TO THE COMMISSIONER FOR PATENTS,

In response to the Office action mailed January 12, 2018, please enter the following amendments and consider the following remarks.

Amendments to the Claims are reflected in the listing of claims that begins on page 2 of this paper.

Remarks begin on page 7 of this paper.

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

1-20. (Canceled)

21. (Currently Amended) A hanger for connecting a structural component to a wall adapted to have sheathing mounted thereon, the hanger comprising:

a channel-shaped portion configured to receive the structural component, the ~~channel-shaped~~ channel-shaped portion including a bottom wall, side panels extending from opposite edges of the bottom wall and a back wall, the bottom wall, side panels and back wall being sized and arranged to receive an end of the structural component for supporting the end of the structural component;

a connection portion including a top flange extending away from the back wall of the channel-shaped portion in a direction opposite to the bottom wall of the channel-shaped portion, the top flange being configured for attachment to a top surface of a top plate of the wall, the connection portion further including a back flange extending from an edge of the top flange in a direction toward a plane of the bottom wall of the channel-shaped portion, the back flange of the connection portion facing the back wall of the channel-shaped portion and the back flange and back wall defining a space sized to receive the sheathing between the back flange and the back wall; and

an extension portion extending from the channel-shaped portion to the connection portion and interconnecting the channel-shaped portion and the connection portion, the extension portion separating the back wall of the channel-shaped portion from the back flange of the connection portion to define the space sized to receive the sheathing,

22. (Currently amended) A hanger as set forth in claim 21 wherein the side panels each include a rearward edge, a portion of the rearward edge of at least one of the side panels being in opposed, spaced apart relation with the back flange ~~the extension portion comprises a first extension flange and a second extension flange.~~

23. (Currently amended) A hanger as set forth in claim 22 wherein the extension portion comprises a first extension flange and a second extension flange, the first and second extension flanges [[are]] being parallel to one another.

24. (Previously presented) A hanger as set forth in claim 23 wherein the first and second extension flanges are in face-to-face engagement with each other.

25. (Previously presented) A hanger as set forth in claim 22 wherein the first and second extension flanges are connected to the channel-shaped portion at an end of the channel-shaped portion opposite an end where the bottom wall is located.

26. (Previously presented) A hanger as set forth in claim 21 wherein the top flange comprises a first connector tab and a second connector tab, the first and second connector tabs being spaced apart from each other.

27. (Previously presented) A hanger as set forth in claim 26 wherein the back flange constitutes a first back flange, the hanger further comprising a second back flange, the first back flange depending from the first connector tab and the second back flange depending from the second connector tab.

28. (Previously presented) A hanger as set forth in claim 27 wherein the extension portion comprises a first extension flange and a second extension flange, the first back flange being connected to the first extension flange along a line parallel to the side panels and the second back flange being connected to the second extension flange along a line parallel to the side panels.

29. (Previously presented) A hanger as set forth in claim 21, wherein the channel-shaped portion, extension portion, and connection portion are formed as one-piece of material.

30. (Previously presented) A hanger as set forth in claim 21, wherein the back wall comprises a first back panel and a second back panel, the first back panel extending from a first of the side panels and the second back panel extending from a second of the side panels toward the first back panel.

31. (Withdrawn) A hanger as set forth in claim 21, wherein the channel-shaped portion is disposed with respect to the extension portion to mount the structural component at a non-orthogonal angle relative to the wall.

32. (Previously presented) A joist hanger for connecting a joist to a wall adapted to have fire resistant wallboard mounted thereon, the joist hanger comprising:
a channel-shaped portion configured to receive the joist, the channel-shaped portion including a base sized and shaped for receiving an end of the joist thereon to support the joist, side panels extending upward from the base generally perpendicular to the base, and back panels extending perpendicularly toward each other from respective ones of the side panels;

an extension portion extending from the channel-shaped portion and configured to extend through the fire resistant wallboard, the extension portion including extension flanges, each of the extension flanges extending away from the base of the channel-shaped portion; and

a connection portion including a top flange extending away from the back panel of the channel-shaped portion in a direction opposite to the base of the channel-shaped portion, the top flange being configured for attachment to a top surface of a top plate of the wall, the connection portion further including a back flange extending from an edge of the top flange in a direction toward a plane of the base of the channel-shaped portion, the extension portion spacing the side panels from the back flange for receiving the wallboard between the side panels and the back flange.

33. (Previously presented) A joist hanger as set forth in claim 32 wherein the extension flanges are parallel to one another.

34. (Previously presented) A joist hanger as set forth in claim 33 wherein the extension flanges are in face-to-face engagement with each other.

35. (Previously presented) A joist hanger as set forth in claim 32 wherein the extension flanges are connected to the channel-shaped portion at an end of the channel-shaped portion opposite an end where the base is located.

36. (Previously presented) A joist hanger as set forth in claim 32 wherein the top flange comprises a first connector tab and a second connector tab, the first and second connector tabs being spaced apart from each other.

37. (Previously presented) A joist hanger as set forth in claim 36 wherein the back flange constitutes a first back flange, the hanger further comprising a second back flange, the first back flange depending from the first connector tab and the second back flange depending from the second connector tab.

38. (Previously presented) A joist hanger as set forth in claim 37 wherein the first back flange is connected to a first of the extension flanges along a line parallel to the side panels and the second back flange is connected to a second of the extension flanges along a line parallel to the side panels.

39. (Previously presented) A joist hanger as set forth in claim 32, wherein the channel-shaped portion, extension portions, and connection portion are formed as one piece of material.

40. (Withdrawn) A hanger as set forth in claim 32, wherein the channel-shaped portion is disposed with respect to the extension portion to mount the structural component at a non-orthogonal angle relative to the wall.

41. (New) A hanger as set forth in claim 21 wherein the back wall lies in a first plane and the back flange lies in second plane parallel to the first plane, the first and second planes being separated by at least $5/8$ inch.

REMARKS

Claims 21-23 are amended and new claim 41 is added by this amendment. Claims 31 and 40 have been withdrawn. No new matter is added and support for the respective subject matter of each of the claims can be found throughout the specification, claims, and drawings. Upon entry of this amendment, claims 21-29, 32-39 and 41 will be pending.

Response to Claim Objections

Claim 21 has been amended to change "channel shaped portion" to "channel-shaped portion" (including the hyphen) as suggested by the Office. Accordingly, the objection is overcome.

Double Patenting

Claim 25 of co-pending patent application Serial No. 14/555,049 has been cancelled by amendment filed March 19, 2018 in that case. Accordingly, the obviousness type double patenting rejection of claims 21 and 32 should be withdrawn.

Response to §103 Rejections*a) Claims 21-31 and 41*

Claim 21 as amended specifies a hanger for connecting a structural component to a wall adapted to have sheathing mounted thereon, where the hanger comprises:

a channel-shaped portion configured to receive the structural component, the channel-shaped portion including a bottom wall, side panels extending from opposite edges of the bottom wall and a back wall, the bottom wall, side panels and back wall being sized and arranged to receive an end of the structural component for supporting the end of the structural component;

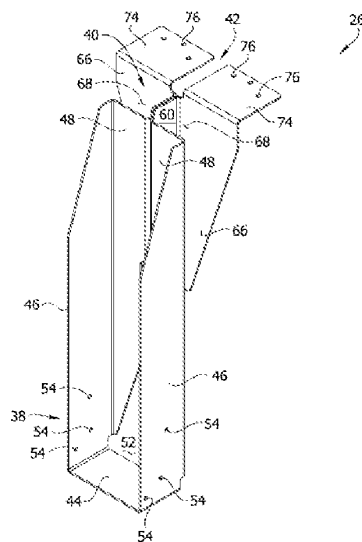
a connection portion including a top flange extending away from the of the channel-shaped portion in a direction opposite to the bottom wall of the channel-shaped portion, . . . , the connection portion further including a back flange extending from an edge of the top flange in a direction toward a plane of the

bottom wall of the channel-shaped portion, the back flange of the connection portion facing *the back wall of the channel-shaped portion and the back flange and back wall defining a space sized to receive the sheathing between the back flange and the back wall*; and

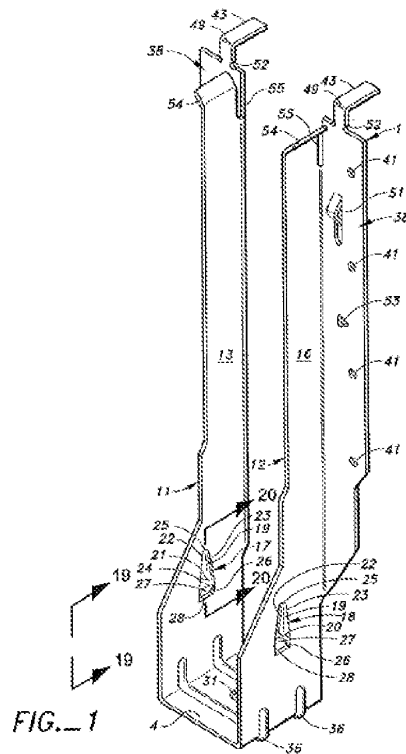
an extension portion extending from the channel-shaped portion to the connection portion and interconnecting the channel-shaped portion and the connection portion, *the extension portion separating the back wall of the channel-shaped portion from the back flange of the connection portion to define the space sized to receive the sheathing*.

Claim 21 is submitted as nonobvious and patentable over Leek, U.S. Publ. No. 2002/0078656 and Carlson, U.S. Pat. No. 804,451 in that the combination does not provide a space defined by the back wall and the back flange that is *sized to receive sheathing between the back flange and the back wall*, as required by claim 21.

In one embodiment of the present invention illustrated in Fig. 2 reproduced below, the hanger 26 includes a channel-shaped portion 38 that has a bottom wall 44 and a back wall 48. The hanger further includes a connection portion 42 that has a top flange 74 and a back flange 66. An extension portion 40 (including extension flanges 60) separates the back wall 48 from the back flange 66 to define the space 40 that can receive the sheathing.

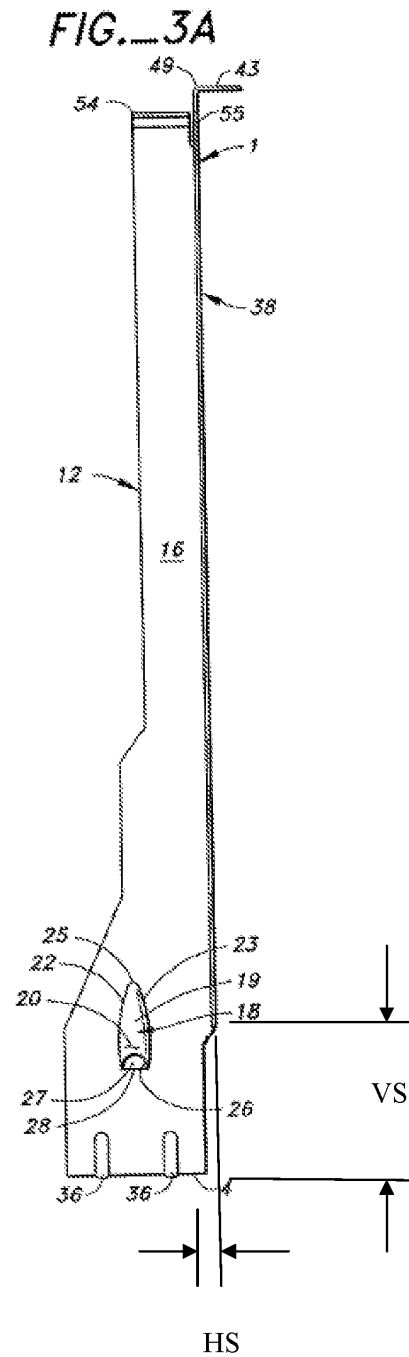


Leek, even if modified according to Carlson fails to show or suggest a hanger having a back wall and a back flange separated by an extension portion to define a space *sized to receive* sheathing *between* the back flange and back wall. Referring to Fig. 1 produced below, Leek describes a hanger that has a seat 4 that receives a I-joist. Side walls 11, 12 extend up from opposite edges of the seat 4. Back flanges 38 extend laterally outward from back edges of the side walls 11, 12. and engage a header in use. Top flange members 43 extending rearwardly from the top edges of the back flanges 38 may hang on the top surfaces of the header. Leek does not show a back wall, and so the Office further applied Carlson to show a hanger with back panels forming a back wall. Office action, p. 7. "Leek et al as modified by Carlson provides a back wall (4, 4) across the back edge of the channel-shaped portion defining a space between the back flange and the back wall." Office action, *Id.*



The office has stated that the extension portion (specified by the Office as parts 13, 16 in Leek) "separat[es] the back edge of the channel-shaped portion from the back flange of the connection portion to define the space to receive the sheathing (the

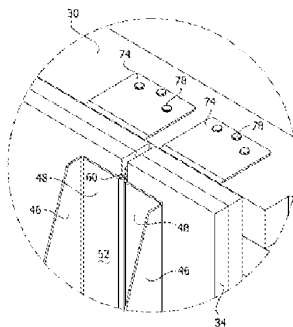
extension portion space the channel-shaped portion apart from the connection portion vertically and horizontally)." *Id.* at p. 5. In order to understand this "space" of Leek, reference is made to the annotated Fig. 3A of Leek produced below.



As best understood, a horizontal separation HS and a vertical separation VS of the back edge (which in the Office's analysis corresponds to the location of the back wall) from the back flanges are as annotated on Fig. 1A of Leek above. Together this horizontal separation HS and vertical separation VS are presumed to define the "space" which is sized to receive sheathing between the back wall and back flanges of Leek

Assuming without conceding that sheathing could be put into the space defined by VS and HS, this space cannot "receive the sheathing between the back flange and the back wall" as required by claim 21. Sheathing received in this space would have a first surface next to the back edge of the hanger and a second, adjacent surface, which is perpendicular to the first surface, next to the back flange. By no reasonable interpretation of the word "between" does Leek have a space to receive sheathing between the back edge and the back flange. Broadest reasonable interpretation "is not just the broadest construction, but rather the broadest reasonable construction in light of the specification." *In re Man Interface Technologies LLC*, 822 F.3d 1282, 1284 (Fed. Cir. 2016) (citing *Microsoft Corp. v. Proxycon, Inc.*, 789 F.3d 1292, 1298 (Fed. Cir. 2015)). It is not permissible to simply construe claim language as broadly as conceivable without reference to the specification. In particular, as in *In re Man Technologies*, interpretation of the claim term without reference to the specification was found to be in error. *Id.* The applicant's specification shows that when receiving is received in the space 68, the back wall 48 and the back flange are positioned on opposite sides of the sheathing. For example, in Fig. 10A it may be seen that the sheathing 34 is received between the back wall 48 and the back flange 66 (covered by the sheathing, but just below the inner edge of the top flanges 74). The back wall 48 engages a side of the sheathing 34 which is opposite to the side of the sheathing engaged by the back flange.

FIG. 10A



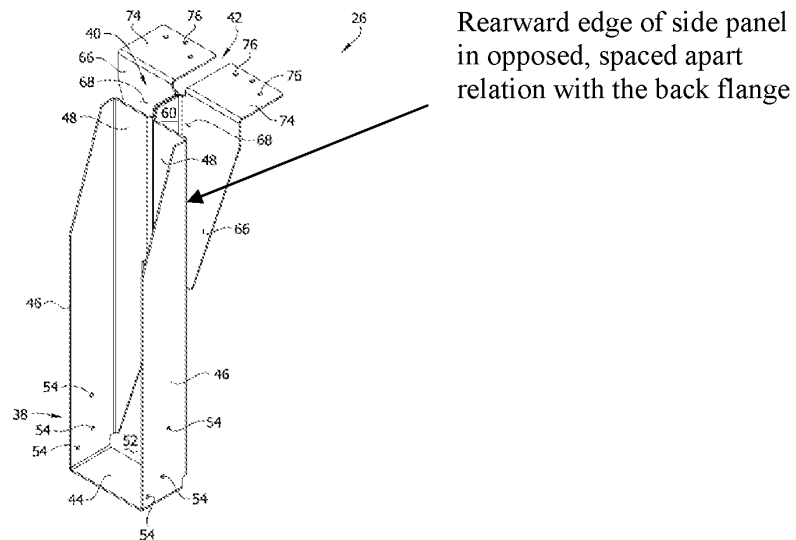
Moreover, there is nothing in Leek that would suggest to the person of ordinary skill in the art that anything, let alone sheathing would be received in the tiny space shown above. It is not reasonable to interpret sheathing as being of any size or configuration so as to conform to this tiny space. The specification makes it clear that sheathing refers to materials that are used to cover frame walls in a house or building. A specific example of one embodiment is 5/8 inch gypsum board. Application, ¶[0055]. The person of ordinary skill in the art understands that the size and shape of the sheathing corresponds to wallboard such as gypsum board which has a rectangular parallelepiped configuration of a size to function as wall board. Given the proper understanding of the terms "sheathing," "space," "receive" and "between," the person of ordinary skill in the art knows that the extremely small space shown by Leek is not a space sized to receive sheathing between the back wall and back flange of the hanger, as required by claim 21.

It is permissible to define the space in reference to the article received in that space. The Federal Circuit has held that a limitation in a claim based on an environmental feature is permissible. *Orthokinetics Inc. v. Safety Travel Chairs Inc.*, 1 U.S.P.Q. 1081, 1088 (Fed. Cir. 1986). In that case, a claim limitation which defined the dimension of a front leg of a car seat in terms of being insertable through the door frame of an automobile to be definite and capable of positively limiting the claim. Accordingly, the size of the space in the present application may be defined in terms of the sheathing that is received within it to a position in which the sheathing is between the back panel and back flange must be found in a prior art reference in order to render the claim unpatentable. The person of ordinary skill in the art of hangers connecting structural components understand that sheathing is of a certain size suitable for serving as wallboard, being for example on the order of 5/8" thick.

Accordingly, claim 21 is submitted as nonobvious and patentable over Leek and Carlson. Claims 22-31 and 41, depending directly or indirectly from claim 21 are submitted as patentable for the same reasons as claim 21.

In addition, claim 22 further requires that "the side panels each include a rearward edge, a portion of the rearward edge of at least one of the side panels being in opposed, spaced apart relation with the back flange." Claim 22 further defines the relationship of

the channel-shaped portion and the back flange so that the sheathing may be received between the channel-shaped portion and the back flange.



As best understood, the side panels 11, 12 of the channel-shaped portion of Leek end where the back flanges 38 begin. Above this point, the parts 13, 16 of the side panels 11, 12 are said by the Office to be the "extension portion." Under the Office's interpretation of Leek, the rearward edges of the side panels 11, 12 are always below the back flanges 38 and no portion of either rearward edge is in opposed, spaced apart relation with the back flanges.

New claim 41 further specifies that "the back wall lies in a first plane and the back flange lies in second plane parallel to the first plane, the first and second planes being separated by at least 5/8 inch." Claim 41 provides a measurement to define the lower boundary of the space between the back wall and the back flange that receives the sheathing. Leek and the other art of record fail to show or suggest a spacing that receives sheathing of at least this size. There is no lack of clarity in specifying only the lower boundary. As filed, claim 21 specified no dimensions at all, meaning the space could be of any size consistent with the understanding of a person of ordinary skill in the art for the use of a hanger claimed. Specifying the lower end of the size range does not suddenly render the upper end indefinite by not also being defined. The person of ordinary skill in the art readily understand how large the space could be without having to be given an upper boundary (which was not present in the original claims in any event).

Accordingly, claim 41 is nonobvious and patentable for the additional reason that Leek fails to show or suggest a space between the back wall and the back flange that is at least 5/8 inch.

Rejoinder of withdrawn claim 31 is respectfully requested.

b) Claims 32-40

Claim 32 is particularly directed to a joint hanger for connecting a joist to a wall adapted to have fire resistant wallboard mounted thereon comprising:

a channel-shaped portion configured to receive the joist, the channel-shaped portion including a base sized and shaped for receiving an end of the joist thereon to support the joist, side panels extending upward from the base generally perpendicular to the base, and back panels extending perpendicularly toward each other from respective ones of the side panels;

an extension portion extending from the channel-shaped portion and *configured to extend through the fire resistant wallboard*, the extension portion including extension flanges, each of the extension flanges extending away from the base of the channel-shaped portion; and

a connection portion including a top flange extending away from the back panel of the channel-shaped portion in a direction opposite to the base of the channel-shaped portion, the top flange being configured for attachment to a top surface of a top plate of the wall, the connection portion further including a back flange extending from an edge of the top flange in a direction toward a plane of the base of the channel-shaped portion, *the extension portion spacing the side panels from the back flange for receiving the wallboard between the side panels and the back flange.*

Claim 32 is submitted as nonobvious and patentable over Leek and Carlson in that the combination fails to show or suggest that the extension portion spaces the side panels from the back flange for receiving wallboard between the side panels and back flange.

These requirements correspond to those of claim 1 and accordingly, claim 32 is submitted as patentable for the same reasons as claim 1.

In addition, claim 31 further requires that the extension portion be "configured to extend through the fire resistant wallboard." A term "configured to" should be interpreted to mean that the extension portion must be designed for extending through a fire resistant wallboard. See, *In re Man Technologies* at 1286. Among other things, the extension portion must be configured so that in use it is sized and positioned to extend through the fire resistant wallboard. However, even if the term is improperly interpreted as "capable of" or "suitable for," Leek fails to show or suggest this feature. Again, the claims must be interpreted according to the understanding of a person of ordinary skill in the art giving consideration to how the terms are used in the specification. The specification of the current application shows that the extension portion 42 (including extension flanges 60) project rearward of the side panels and is large enough to extend completely through fire resistant wallboard. This is shown at Fig. 10A (reproduced above) and also described at paragraph [0060] and elsewhere.

Leek provides no contrary disclosure. The parts 13 and 16 of Leek, which are merely an upper part of the side walls 11, 12 and are not shown or described as having an arrangement relative to the channel-shaped portion to extend through a wallboard. The back flanges 38 are shown as resting against a header. There is absolutely no indication that the parts 13, 16 are even capable of extending through fire resistant wallboard in any context that the person of ordinary skill in the art would understand that the hanger could be used. The parts 13, 16 are certainly not designed for extending through fire resistant wallboard. They are not located or sized relative to the channel-shaped portion to extend through the wallboard.

It is not reasonable in light of the specification to interpret the upper parts 13, 16 of the side walls 11 to be the claimed extension portion. When used as the person of ordinary skill understands, the parts 13, 16 would not extend through fire resistant wallboard. The parts 13, 16 extend slightly to the rear of the channel-shaped portion, but the extent is far too small to extend through fire resistant wallboard. Accordingly, Leek as combined with Carlson fails to show or suggest an extension portion configured to

extend through fire resistant wallboard. Accordingly, claim 31 is nonobvious and patentable over Leek and Carlson.

Claims 33-40 depend directly or indirectly from claim 32 and are submitted as patentable for the same reasons as claim 32.

Rejoinder of claim 40 is respectfully requested.

CONCLUSION

Applicants respectfully request consideration and allowance of the claims of the present application.

The Commissioner is hereby authorized to charge any underpayment and credit any overpayment of government fees in connection with this application to Deposit Account No. 19-1345.

Respectfully submitted,

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
15/675,409	08/11/2017	Steven Brekke	MLP 7708.USC1	6105
321	7590	01/12/2018	EXAMINER	
SENNIGER POWERS LLP 100 NORTH BROADWAY 17TH FLOOR ST LOUIS, MISSOURI 63102			MINTER, KEITH	
			ART UNIT	PAPER NUMBER
			3635	
			NOTIFICATION DATE	DELIVERY MODE
			01/12/2018	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):

uspatents@senniger.com

Office Action Summary	Application No. 15/675,409	Applicant(s) Brekke et al.	
	Examiner KEITH MINTER	Art Unit 3635	AIA Status Yes

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/01/2017.
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims*

- 5) ☒ Claim(s) 21-40 is/are pending in the application.
5a) Of the above claim(s) 31 and 40 is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 21-30 and 32-39 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☒ The drawing(s) filed on 11 August 2017 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

- a) ☐ All b) ☐ Some** c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

** See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)
Paper No(s)/Mail Date ____.
- 3) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 4) ☐ Other: ____.

DETAILED ACTION

1. This is a First Office action on the merits for application serial number 15/675,409 filed 08/11/2017. Claims 21-40 are pending. Claims 21-40 are subject to examination in this Office action.

Notice of Pre-AIA or AIA Status

2. The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

Election/Restrictions

3. Applicant's election without traverse of Species I (Figs. 1-15), without traverse (Claims 21-30 and 32-39 read on elected Species 1) in the reply filed on 11/01/2017 is acknowledged.

Claims 31 and 40 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species 2, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11/01/2017.

Information Disclosure Statement

4. The IDS filed 08/11/2017 has been considered. An initialed copy of the 1449 form is attached.

Drawings

5. The drawings are filed 08/11/2017 are accepted.

Claim Objections

6. Claim 1 is objected to because of the following informalities:

-Claim 1 recites "the channel shaped portion" in lines 3-4 which appears to be a misspelling of "channel-shaped portion".

Appropriate correction is required.

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise

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

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

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

Claims 21 and 32 are provisionally rejected on the ground of nonstatutory double patenting as being unpatentable over claim 25 of copending Application No. 14/555,049 in view of Gilb (US 4,560,301). Although the claims at issue are not identical, they are not patentably distinct from each other because claim 25 of copending Application No. 14/555,049 does not provide a back wall on the c-shaped portion. Gilb teaches a hanger with a channel-shape portion including a bottom wall (27), side panels (30, 31) extending from opposite edges of the bottom wall and a back wall (23) to securely hold a structural member (18) and prevent movement toward the wall. It would have been obvious to a person having ordinary skill in the art to modify the device of Leek et al. and provide a back wall (23) to the channel-shaped portion to securely hold a structural member (18) and prevent movement toward the wall, as taught by Gilb.

This is a provisional nonstatutory double patenting rejection because the patentably indistinct claims have not in fact been patented.

Claim Rejections - 35 USC § 103

8. In the event the determination of the status of the application as subject to AIA 35 U.S.C. 102 and 103 (or as subject to pre-AIA 35 U.S.C. 102 and 103) is incorrect, any correction of the statutory basis for the rejection will not be considered a new ground of rejection if the prior art relied upon, and the rationale supporting the rejection, would be the same under either status.

9. The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent for a claimed invention may not be obtained, notwithstanding that the claimed invention is not identically disclosed as set forth in section 102 of this title, if the differences between the claimed invention and the prior art are such that the claimed invention as a whole would have been obvious before the effective filing date of the claimed invention to a person having ordinary skill in the art to which the claimed invention pertains. Patentability shall not be negated by the manner in which the invention was made.

10. **Claims 21-23, 25-30, 32-33, and 35-39 are rejected under 35 U.S.C. 103 as being unpatentable over Leek et al. (US 2002/0078656) in view of Carlson (US 804,451).**

With respect to claim 21 Leek et al. provides a hanger for connecting a structural component to a wall adapted to have sheathing mounted thereon, the hanger comprising:

a channel-shaped portion configured to receive the structural component, the channel shaped portion including a bottom wall (4), side panels (11, 12) extending from opposite edges of the bottom wall and a back edge, the bottom wall, side panels and back edge being sized and arranged to receive an end of the structural component (joist 2) for supporting the end of the structural component;

a connection portion including a top flange (38, 43) extending away from the back wall of the channel-shaped portion in a direction opposite to the bottom wall of the channel-shaped portion, the top flange being configured for attachment to a top surface of a top plate of the wall, the connection portion further including a back flange (38, 38) extending from an edge of the top flange in a direction toward a plane of the bottom wall of the channel-shaped portion, the back flange of the connection portion facing the back edge of the channel-shaped portion and the back flange and back edge defining a space sized to receive the sheathing between the back flange and the back wall; and

an extension portion (13, 16) extending from the channel-shaped portion to the connection portion and interconnecting the channel-shaped portion and the connection portion, the extension portion separating the back edge of the channel-shaped portion from the back flange of the connection portion to define the space sized to receive the sheathing (the extension portion space the channel-shaped portion apart from the connection portion vertically and horizontally).

Leek et al. does not provide a back wall of the channel-shaped portion, the back flange of the connection portion facing the back wall of the channel-shaped portion and the back flange and back

wall defining a space sized to receive the sheathing between the back flange and the back wall. Carlson teaches a hanger with a channel-shape portion including a bottom wall (1), side panels (2, 2) extending from opposite edges of the bottom wall and a back wall (4, 4) to provide a maximum degree of strength (lines 40-45) to securely hold a structural member and prevent movement toward the wall. It would have been obvious to a person having ordinary skill in the art to modify the device of Leek et al. and provide a back wall (4,4) to the channel-shaped portion to provide a maximum degree of strength to securely hold a structural member and prevent movement toward the wall, as taught by Carlson. Leek et al as modified by Carlson provides a back wall (4, 4) across the back edge of the channel-shaped portion defining a space between the back flange and the back wall.

With respect to claim 22 Leek et al. provides the extension portion comprises a first extension flange (13) and a second extension flange (16).

With respect to claim 23 Leek et al. provides the first (13) and second (16)extension flanges are parallel to one another (as shown in figure 18).

With respect to claim 25 Leek et al. provides the first (13) and second (16) extension flanges are connected to the channel-shaped portion (27, 30, 31) at an end (top of channel-shaped portion) of the channel-shaped portion opposite an end where the bottom wall (bottom of channel-shaped portion) is located.

With respect to claim 26 Leek et al. provides the top flange comprises a first connector tab (43) and a second connector tab (43) , the first and second connector tabs being spaced apart from each other (as shown in figure 18).

With respect to claim 27 Leek et al. provides the back flange constitutes a first back flange (38), the hanger further comprising a second back flange (38), the first back flange depending from the first connector tab (43) and the second back flange depending from the second connector tab (43).

With respect to claim 28 Leek et al. provides the extension portion comprises a first extension flange (13) and a second extension flange (16), the first back flange being connected to the first extension flange along a line parallel to the side panels (line extending notch 55) and the second back flange being connected to the second extension flange along a line parallel to the side panels (line extending notch 55).

With respect to claim 29 Leek et al. provides the channel-shaped portion, extension portion, and connection portion are formed as one-piece of material [00129].

With respect to claim 30 Leek et al. as modified by Carlson provides in claim 21 the back wall comprises a first back panel (4) and a second back panel (4), the first back panel extending from a first of the side panels and the second back panel extending from a second of the side panels toward the first back panel (as shown in figure 1 of Carlson).

With respect to claim 32 Leek et al. provides a joist hanger for connecting a joist to a wall adapted to have fire resistant wallboard mounted thereon, the joist hanger comprising:

a channel-shaped portion configured to receive the joist, the channel-shaped portion including a base (4) sized and shaped for receiving an end of the joist thereon to support the joist, side panels (11, 12) extending upward from the base generally perpendicular to the base, and

an extension portion (13, 16) extending from the channel-shaped portion and configured to extend through the fire resistant wallboard, the extension portion including extension flanges (13, 16), each of the extension flanges extending away from the base of the channel-shaped portion (the extension portion space the channel-shaped portion apart from the connection portion vertically and horizontally); and

a connection portion (38, 43) including a top flange (43) extending away from the back panel of the channel-shaped portion in a direction opposite to the base of the channel-shaped portion, the top flange being configured for attachment to a top surface of a top plate of the wall, the

connection portion further including a back flange (38) extending from an edge of the top flange in a direction toward a plane of the base of the channel-shaped portion, the extension portion spacing the side panels from the back flange for receiving the wallboard between the side panels and the back flange.

Leek et al does not provide back panels extending perpendicularly toward each other from respective ones of the side panels. Carlson teaches a hanger with a channel-shape portion including a bottom wall (1), side panels (2, 2) extending from opposite edges of the bottom wall and a back wall (4, 4) to provide a maximum degree of strength (lines 40-45) to securely hold a structural member and prevent movement toward the wall. It would have been obvious to a person having ordinary skill in the art to modify the device of Leek et al. and provide a back wall (4,4) to the channel-shaped portion to provide a maximum degree of strength to securely hold a structural member and prevent movement toward the wall, as taught by Carlson.

With respect to claim 33 Leek et al. provides the extension flanges (13, 16) are parallel to one another (as shown in figure 18).

With respect to claim 35 Leek et al. provides the first (13) and second (16) extension flanges (13, 16) are connected to the channel-shaped portion (27, 30, 31) at an end (top of channel-shaped portion) of the channel-shaped portion opposite an end where the bottom wall (bottom of channel-shaped portion) is located.

With respect to claim 36 Leek et al. provides the top flange comprises a first connector tab (43) and a second connector tab (43), the first and second connector tabs being spaced apart from each other (as shown in figure 18).

With respect to claim 37 Leek et al. provides the back flange constitutes a first back flange (38), the hanger further comprising a second back flange (38), the first back flange depending from the first connector tab (43) and the second back flange depending from the second connector tab (43).

With respect to claim 38 Leek et al. provides the first back flange being connected to the first extension flange along a line parallel to the side panels (line extending notch 55) and the second back flange being connected to the second extension flange along a line parallel to the side panels (line extending notch 55).

With respect to claim 39 Leek et al. provides the channel-shaped portion, extension portion, and connection portion are formed as one-piece of material [00129].

11. Claims 24 and 34 are rejected under 35 U.S.C. 103 as being unpatentable over Leek et al. (US 2002/0078656) in view of Carlson (US 804,451) as applied to claims 23 and 33 above and further in view of Lehman (US 478,163).

With respect to claims 24 and 34 Leek et al. as modified by Carlson does not provide the first and second extension flanges are in face-to-face engagement with each other. Lehman teaches a hanger with extension portions (E; Fig 2) in a face to face engagement with each other to form a Lug at the rear for attaching the hanger (Claim 3). It would have been obvious to a person having ordinary skill in the art to modify the device of Leek et al. in view of Carlson and provide extension portions (E; Fig 2) in a face to face engagement with each other to form a Lug at the rear for attaching the hanger, as taught by Lehman.

Conclusion

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

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEITH MINTER whose telephone number is (571)270-5405. The examiner can normally be reached on 8:30 am to 5:00 pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSHUA J. MICHENER can be reached on (571)272-1467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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

/JOSHUA J MICHENER/
Supervisory Patent Examiner, Art Unit 3635

/KEITH MINTER/
Examiner, Art Unit 3635

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Steven Brekke

Art Unit 3635

Serial No. 15/675,409

Filed August 11, 2017

Confirmation No. 6105

For HANGER FOR FIRE SEPARATION WALL

Examiner Keith Minter

November 1, 2017

RESPONSE TO RESTRICTION REQUIREMENT

TO THE COMMISSIONER FOR PATENTS,

In response to the Office action mailed October 6, 2017, please enter the following amendments and consider the following remarks.

Listing of Claims begins on page 2 of this paper.

Remarks begin on page 5 of this paper.

LISTING OF CLAIMS

1-20. (Canceled)

21. (Previously presented) A hanger for connecting a structural component to a wall adapted to have sheathing mounted thereon, the hanger comprising:

a channel-shaped portion configured to receive the structural component, the channel shaped portion including a bottom wall, side panels extending from opposite edges of the bottom wall and a back wall, the bottom wall, side panels and back wall being sized and arranged to receive an end of the structural component for supporting the end of the structural component;

a connection portion including a top flange extending away from the back wall of the channel-shaped portion in a direction opposite to the bottom wall of the channel-shaped portion, the top flange being configured for attachment to a top surface of a top plate of the wall, the connection portion further including a back flange extending from an edge of the top flange in a direction toward a plane of the bottom wall of the channel-shaped portion, the back flange of the connection portion facing the back wall of the channel-shaped portion and the back flange and back wall defining a space sized to receive the sheathing between the back flange and the back wall; and

an extension portion extending from the channel-shaped portion to the connection portion and interconnecting the channel-shaped portion and the connection portion, the extension portion separating the back wall of the channel-shaped portion from the back flange of the connection portion to define the space sized to receive the sheathing.

22. (Previously presented) A hanger as set forth in claim 21 wherein the extension portion comprises a first extension flange and a second extension flange.

23. (Previously presented) A hanger as set forth in claim 22 wherein the first and second extension flanges are parallel to one another.

24. (Previously presented) A hanger as set forth in claim 23 wherein the first and second extension flanges are in face-to-face engagement with each other.

25. (Previously presented) A hanger as set forth in claim 22 wherein the first and second extension flanges are connected to the channel-shaped portion at an end of the channel-shaped portion opposite an end where the bottom wall is located.

26. (Previously presented) A hanger as set forth in claim 21 wherein the top flange comprises a first connector tab and a second connector tab, the first and second connector tabs being spaced apart from each other.

27. (Previously presented) A hanger as set forth in claim 26 wherein the back flange constitutes a first back flange, the hanger further comprising a second back flange, the first back flange depending from the first connector tab and the second back flange depending from the second connector tab.

28. (Previously presented) A hanger as set forth in claim 27 wherein the extension portion comprises a first extension flange and a second extension flange, the first back flange being connected to the first extension flange along a line parallel to the side panels and the second back flange being connected to the second extension flange along a line parallel to the side panels.

29. (Previously presented) A hanger as set forth in claim 21, wherein the channel-shaped portion, extension portion, and connection portion are formed as one-piece of material.

30. (Previously presented) A hanger as set forth in claim 21, wherein the back wall comprises a first back panel and a second back panel, the first back panel extending from a first of the side panels and the second back panel extending from a second of the side panels toward the first back panel.

31. (Withdrawn) A hanger as set forth in claim 21, wherein the channel-shaped portion is disposed with respect to the extension portion to mount the structural component at a non-orthogonal angle relative to the wall.

32. (Previously presented) A joist hanger for connecting a joist to a wall adapted to have fire resistant wallboard mounted thereon, the joist hanger comprising:

a channel-shaped portion configured to receive the joist, the channel-shaped portion including a base sized and shaped for receiving an end of the joist thereon to support the joist, side panels extending upward from the base generally perpendicular to the base, and back panels extending perpendicularly toward each other from respective ones of the side panels;

an extension portion extending from the channel-shaped portion and configured to extend through the fire resistant wallboard, the extension portion including extension flanges, each of the extension flanges extending away from the base of the channel-shaped portion; and

a connection portion including a top flange extending away from the back panel of the channel-shaped portion in a direction opposite to the base of the channel-shaped portion, the top flange being configured for attachment to a top surface of a top plate of the wall, the connection portion further including a back flange extending from an edge of the top flange in a direction toward a plane of the base of the channel-shaped portion, the extension portion spacing the side panels from the back flange for receiving the wallboard between the side panels and the back flange.

33. (Previously presented) A joist hanger as set forth in claim 32 wherein the extension flanges are parallel to one another.

34. (Previously presented) A joist hanger as set forth in claim 33 wherein the extension flanges are in face-to-face engagement with each other.

35. (Previously presented) A joist hanger as set forth in claim 32 wherein the extension flanges are connected to the channel-shaped portion at an end of the channel-shaped portion opposite an end where the base is located.

36. (Previously presented) A joist hanger as set forth in claim 32 wherein the top flange comprises a first connector tab and a second connector tab, the first and second connector tabs being spaced apart from each other.

37. (Previously presented) A joist hanger as set forth in claim 36 wherein the back flange constitutes a first back flange, the hanger further comprising a second back flange, the first back flange depending from the first connector tab and the second back flange depending from the second connector tab.

38. (Previously presented) A joist hanger as set forth in claim 37 wherein the first back flange is connected to a first of the extension flanges along a line parallel to the side panels and the second back flange is connected to a second of the extension flanges along a line parallel to the side panels.

39. (Previously presented) A joist hanger as set forth in claim 32, wherein the channel-shaped portion, extension portions, and connection portion are formed as one piece of material.

40. (Withdrawn) A hanger as set forth in claim 32, wherein the channel-shaped portion is disposed with respect to the extension portion to mount the structural component at a non-orthogonal angle relative to the wall.

REMARKS

Claims 31 and 40 are withdrawn. Claims 21-40 remain pending upon entry of this response.

Election of Species

The Examiner has required an election of one of the following species:

Species I as shown in Figs. 1-15; and

Species II as shown in Figs. 25-40.

Applicant hereby elects Species I (Figs. 1-15), without traverse. Claims 21-30 and 32-39 read on elected Species 1. Accordingly, claims 31 and 40 are withdrawn. At least claims 21 and 32 are generic to both Species 1 and Species II. Rejoinder of claims 31 and 40 is requested upon allowance of a generic base claim for each of the withdrawn claims.

Applicant hereby reserves the right to file a divisional application directed to the non-elected species.

CONCLUSION

Favorable consideration and allowance of claims 21-40 is respectfully requested. The Commissioner is hereby authorized to charge any fee necessary in the pendency of this application to Deposit Account No. 19-1345.

Respectfully submitted,

/Kurt F. James/

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