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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/882,973	10/14/2015	John Oren	355.1002X5	6777
160157	7590	07/23/2019	EXAMINER	
LKGLOBAL (U.S. Silica) 7010 E. COCHISE ROAD SCOTTSDALE, AZ 85253			ENGLISH, PETER C	
			ART UNIT	PAPER NUMBER
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			07/23/2019	ELECTRONIC

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

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

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

USSilica@lkglobal.com



## DETAILED ACTION

### *Status of Submission*

1. This Office action is responsive to applicant's submission filed on June 26, 2019, which has been entered.

### *Objections to Amendment – New Matter*

2. The amendment filed on June 26, 2019 is objected to under 35 U.S.C. 132(a), which states that no amendment shall introduce new matter into the disclosure of the invention. Specifically, the amendment introduces new matter because there is no support in the original disclosure<sup>1</sup> for the inclined sides 602 (short sides 604A1, 604A2 and long sides 604B1, 604B2) of the discharge chute (i.e., hopper) 600 “terminating at a discharge opening” (claim 7, ll. 14-15; claim 16, ll. 10-11).

The original disclosure describes the hopper 600 as including a top portion 606 and a bottom portion 608, and describes the bottom portion 608 as including the discharge opening 610. See ¶ 0068 of the specification. See also the description of the inclined sides 602 (short sides 604A1, 604A2 and long sides 604B1, 604B2) in ¶¶ 67, 68, 80 and 83 of the specification, which paragraphs fail to describe the inclined sides as “terminating at a discharge opening”. While Figs. 5A-5C could possibly be interpreted as showing the inclined sides as terminating at the discharge opening 610, such an interpretation is clearly contradicted by the illustration of the hopper 600 in Figs. 7A-7B. Note that Figs. 7A-7B show the hopper 600 as including walls extending downwardly from the inclined sides 604A1, 604B1 toward the conveyor 1000, thereby spacing the discharge opening 610 downward from the inclined sides of the hopper 600. Thus, the drawings cannot be relied upon, apart from any supporting disclosure in the specification, as providing support for the newly-claimed definition of the inclined walls as “terminating at a discharge opening”.

3. Applicant is required to cancel the new matter in the reply to this Office Action.

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<sup>1</sup> The “original disclosure” is the disclosure of the instant continuation-in-part application as filed on October 14, 2015.

***Correction of Priority Claim***

4. The instant application was identified, on filing, as all of:

PRIORITY CHAIN A: a continuation-in-part of Application No. 14/676,039, which claims the benefit of provisional Application Nos. 62/012,160, 62/014,479 and 62/114,614.

PRIORITY CHAIN B: a continuation-in-part of Application No. 13/555,635, and a continuation-in-part of Application No. 13/628,702, which is a continuation-in-part of Application No. 13/555,635.

PRIORITY CHAIN C: a continuation-in-part of Application No. 14/834,511, which is an application for reissue of Patent No. 8,585,341, which is a continuation of Application No. 13/628,702, which is a continuation-in-part of Application No. 13/555,635.

PRIORITY CHAIN D: a continuation-in-part of Application No. 14/882,973, which is a continuation-in-part of Application No. 13/628,702, which is a continuation-in-part of Application No. 13/555,635.

See the Application Data Sheet (ADS) and the first paragraph of the specification, both of which were filed on October 14, 2015 as part of the original application.

5. Via the corrected ADS and the amendments to the first paragraph of the specification filed on April 25, 2018, the applicant has deleted PRIORITY CHAIN C from the priority claim. In response, the Office issued a corrected Filing Receipt on April 30, 2018.

6. Prior to the deletion of PRIORITY CHAIN C, the instant application was a *Bauman* type continuing application. See the explanation in items 2-6 of the prior Office action mailed on May 10, 2017. As a result of the deletion of PRIORITY CHAIN C, the instant application is no longer a *Bauman* type continuing application.

***Election/Restriction***

7. Applicant elected Invention II (claims 7-20), without traverse, in the reply filed on May 11, 2016. Accordingly, claims 1-6 are withdrawn from further consideration by the examiner as being drawn to a non-elected invention. See 37 CFR 1.142(b).

*Effective Filing Date*

8. Claims 7, 9 and 11-18 of the instant continuation-in-part application are not entitled to the filing date of any of parent Application Nos. 14/834,511, 14/676,039, 13/768,962, 13/660,866, 13/628,702 and 13/555,635 or to the filing date of any of provisional Application Nos. 62/012,160, 62/014,479 and 62/114,614 because each of these prior applications fails to provide sufficient support under 35 USC 112(a) for at least the following limitations recited in the claims of the instant application:

- A discharge gate at the discharge opening of each discharge chute positionable with respect to the respective discharge chute for varying the respective discharge opening to control the amount of fracking proppant delivered from the respective proppant containers onto the conveyor belt (see claim 7, ll. 16-19), wherein each discharge gate is movable relative to the respective discharge chute providing a controllable discharge opening to control the amount of fracking proppant dispensed onto the conveyor belt (claim 9).
- A controller configured to move each discharge gate relative to the respective discharge chute for adjusting the respective discharge opening and the discharge of the fracking proppant onto the conveyor belt (see claims 11 and 17), with the controller having a user interface in wireless communication therewith (see claims 12, 13 and 18).
- Container slide gates that are independently operable from respective discharge chutes (see claim 15).
- A discharge gate positioned at the discharge opening for each of the discharge chutes to control the amount of fracking proppant delivered from the respective proppant containers onto the conveyor belt, wherein each discharge gate is positionable with respect to the respective discharge chute for varying the respective discharge opening to control the amount of fracking proppant dispensed onto the conveyor belt (see claim 16, ll. 17-23).

It is noted that prior Application No. 13/628,702 discloses: a hopper 84 positioned on a support structure 60 directly below an outlet 36 of a container 10, with a metering gate 90 positioned adjacent to an opening 88 at the bottom of the hopper 84, wherein the metering gate

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