

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ALLSTEEL INC.,
Petitioner,

v.

DIRTT ENVIRONMENTAL SOLUTIONS LTD.,
Patent Owner.

Case IPR2015-01691
Patent 8,024,901 B2

Before SALLY C. MEDLEY, SCOTT A. DANIELS, and
JACQUELINE T. HARLOW, *Administrative Patent Judges*.

MEDLEY, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
Inter Partes Review
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

We have jurisdiction to hear this *inter partes* review under 35 U.S.C. § 6. This Final Written Decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons that follow, we determine that Petitioner has shown by a preponderance of the evidence that claims 1, 4–7, 9, 10, 14–20, and 25 of U.S. Patent No. 8,024,901 B2 are unpatentable.

A. Procedural History

Petitioner, Allsteel Inc., filed a Petition requesting an *inter partes* review of claims 1, 4–11, 13–23, and 25 of U.S. Patent No. 8,024,901 B2 (Ex. 1001, “the ’901 patent”). Paper 1 (“Pet.”). Patent Owner, DIRTT Environmental Solutions Ltd., filed a Preliminary Response. Paper 9 (“Prelim. Resp.”). Upon consideration of the Petition and Preliminary Response, on February 2, 2016, we instituted an *inter partes* review of claims 1, 4–7, 9, 10, 14–20, and 25, pursuant to 35 U.S.C. § 314. Paper 10 (“Dec.”).

Subsequent to institution, Patent Owner filed a Patent Owner Response (Paper 24 (“PO Resp.”)) and Petitioner filed a Reply (Paper 30 (“Pet. Reply”)). Petitioner filed a Motion to Exclude (Paper 34 (“Pet. Mot. to Exclude”)) paragraph 4 of Exhibit 2004 and Exhibit 2005 in its entirety. Patent Owner filed an Opposition to the Motion to Exclude (Paper 39 (“PO Exclude Opp.”)), and Petitioner filed a Reply (Paper 40 (“Pet. Exclude Reply”)).

Patent Owner filed a Motion to Exclude (Paper 36 (“PO Mot. to Exclude”)) portions of Exhibit 1030 and Petitioner’s Reply. Petitioner filed an Opposition to the Motion to Exclude (Paper 38 (“Pet. Exclude Opp.”)), and Patent Owner filed a Reply (Paper 41 (“PO Exclude Reply”)).

An oral hearing was held on October 13, 2016, and a transcript of the hearing is included in the record (Paper 43 (“Tr.”)).

B. Related Proceeding

The ’901 patent is involved in the following lawsuit: *DIRTT Environmental Solutions Ltd. v. Allsteel Inc.*, No. 1:15-cv-04874 (N. D. Ill.).

Pet. 1. The '901 patent is the subject of three pending reissue applications: (1) 14/032,931, filed September 20, 2013; (2) 14/305,819, filed June 16, 2014; and (3) 14/681,874, filed April 8, 2015. Papers 4, 6.

C. The '901 Patent

The '901 patent relates to a reconfigurable wall system. Ex. 1001, Abstract. The wall system has at least one module having a front and rear surface and vertical end frames disposed on side edges of the module. *Id.* The vertical end frame of one module connects to a vertical end frame of another module through a removable connecting strip. *Id.*

Figure 1 is reproduced below.

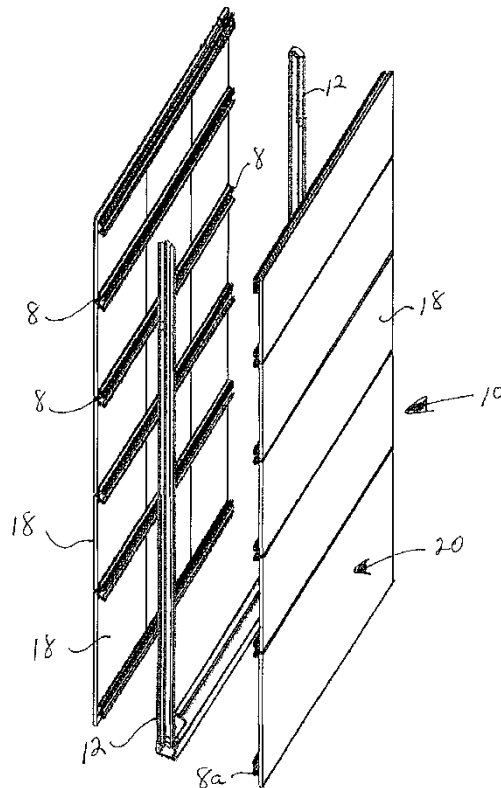


Figure 1 depicts a wall system 10

Figure 1 depicts a wall system 10 made up of one or more wall modules 20. *Id.* at 4:37–38. Each module 20 includes tiles 18, horizontal stringers 8, and a pair of vertical end frames 12. *Id.* at 4:39–45. A more detailed depiction of the horizontal stringers is shown in Figure 9 below.

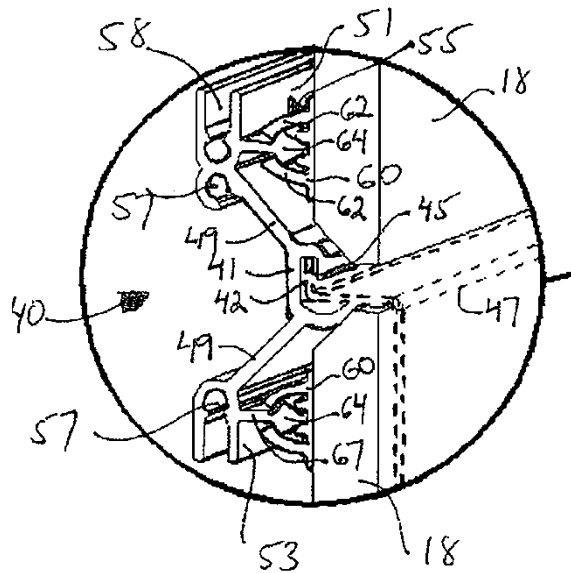


Figure 9

Figure 9 shows a detailed view of a horizontal stringer

Each horizontal stringer is spaced apart at intervals along the height of the module for strength and rigidity. *Ex.1001*, 4:54–55. Stringer 40, referred to as cantilever channel stringer, may include channel portion 41 to support objects. *Id.* at 4:55–57. Channel portion 41 includes an L-shaped slot 42 adapted to receive L-shaped hook 45 formed on a wall accessory 47. *Id.* at 6:22–26. Stringer 40 also includes tile support 55 on upper 51 and lower 53 portions of the stringer. *Id.* at 6:26–30. Web 49 connects channel portion 41 to upper and lower portions 51 and 53 respectively. *Id.* at 6:22–28. Tile support 55 is mounted above and below channel portion 41 and is the connection point for the tiles 18 that are mounted above and below channel portion 41. *Id.* at 6:28–37. Tiles include connector strip 60 which

in turn includes a pair of opposed flexible arms 62 to snap-fit with an arrow shaped bead 64 along the edge of flanges 67 which extends the length of the upper and lower portions 51 and 53 of the stringer. *Id.* Stringers are connected to end frames 12 by fasteners, such as threaded screws. *Id.* at 4:62–63.

D. Illustrative Claim

Claim 1 is the sole independent claim and is reproduced below.

1. A movable reconfigurable wall system comprising:
 - a) at least one wall module having a front and rear surface and top, bottom, right side and left side edges, said at least one wall module having:
 - i) a vertical end frame disposed adjacent to each of said right and left side edges, each vertical end frame having a first vertically extending flange and a spaced apart second vertically extending flange thereon, each of said first vertically extending flange and said second vertically extending flange having a beaded portion, the beaded portion on one of said first vertically extending flange or said second vertically extending flange extending toward the front surface of the wall module and the beaded portion on the other of said first vertically extending flange or said second vertically extending flange extending toward the rear surface of the wall module;
 - ii) a plurality of horizontal stringers affixed between said vertical end frames at said right and left side edges; and
 - iii) an aesthetic surface affixed to said stringers; and
 - b) a removable connecting strip having a pair of spaced apart flexible arms, each arm having a beaded portion thereon, the beaded portion of one of said arms being adapted to connect releasably to the beaded portion of one of said first vertically extending flange or said second vertically extending flange on said vertical end frame and the beaded portion of the other of said arms being adapted to connect releasably to the beaded portion of a corresponding opposed vertically extending flange on a separate vertical end frame of a

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