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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* HANS-DIETER GRUETERING

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Appeal 2017-011346<sup>1</sup>  
Application 14/763,401  
Technology Center 3600

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Before JOHN C. KERINS, BRANDON J. WARNER, and  
ALYSSA A. FINAMORE, *Administrative Patent Judges*.

FINAMORE, *Administrative Patent Judge*.

DECISION ON APPEAL

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<sup>1</sup> We reference herein the Final Office Action dated November 2, 2016 (“Final Act.”), Appeal Brief filed April 28, 2017 (“Appeal Br.”), Examiner’s Answer dated July 6, 2017 (“Ans.”), and Reply Brief filed September 6, 2017 (“Reply Br.”).

## STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant<sup>2</sup> appeals from the Examiner's decision to reject claims 1–14, 16, 19, and 20.<sup>3</sup> An oral hearing was held on July 8, 2019.

We have jurisdiction under 35 U.S.C. § 6(b). We AFFIRM IN PART.

## CLAIMED SUBJECT MATTER

Claims 1 and 7 are the independent claims on appeal. Independent claim 1, reproduced below, is illustrative of the claimed subject matter:

Claim 1: A method for exploiting an industrial site, the method comprising:

erecting a permanent building on the site, wherein the building comprises

a multiplicity of bays to receive interchangeable functional units;

a building shell to protect the functional units received from effects of weather;

technical building equipment; and

an infrastructure grid for energy, material, and data;

providing a multiplicity of pallets, which are neutral with respect to a utilization thereof, are standardized with respect to dimensions thereof, and are designed to be received by the bays of the building;

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<sup>2</sup> “Appellant” refers to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as Evonik Degussa GmbH. Appeal Br. 1.

<sup>3</sup> The Final Office Action indicates claims 1–14 and 16–20 are rejected. Final Act. 1. After the Final Office Action, Appellant filed an Amendment on December 30, 2016, canceling claims 17 and 18, and amending independent claims 1 and 7 to include the subject matter of claims 17 and 18, respectively. The Examiner entered the Amendment via an Advisory Action dated January 25, 2017. Thus, claims 17 and 18 are no longer pending and not before us on appeal.

equipping the pallets with at least one of production or operating devices at one or more locations remote from the site to form a first generation of the functional units, and the at least one of the production or operating devices gives the first generation of the functional units a specific first purpose defining a usage of each respective one of the first generation of the functional units in the building;

transporting the functional units to the site;

installing the first generation of the functional units in the building by inserting the first generation of the functional units in first bays among the bays;

connecting the first generation of the functional units to the infrastructure grid via standardized connections in the first bays, the standardized connections to transfer the energy, the material, and the data from the infrastructure grid;

utilizing the first generation of the functional units within the building in accordance with the specific first purpose of each respective one of the first generation of the functional units;

equipping the pallets with at least a different one of the production or operating devices at one or more locations remote from the site to form a second generation of the functional units, at least the different one of the production or operating devices gives the second generation of the functional units a specific second purpose defining a usage of each respective one of the second generation of the functional units in the building, and the specific second purpose differs at least partially from the specific first purpose;

replacing the first generation of the functional units with the second generation of the functional units;

connecting the second generation of the functional units to the infrastructure grid via the standardized connections in the first bays; and

utilizing the second generation of the functional units within the building in accordance with the specific second purpose of each respective one of the second generation of the functional units, wherein

the at least one of the production or operating devices of the first generation of the functional units includes a service life that is different from a service life of the different one of the

production or operating devices of the second generation of the functional units.

Appeal Br., Claims App.

## REJECTIONS

<b>Claim(s) Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/Basis</b>
1–6, 19	103(a)	Beighton, <sup>4</sup> Schoenfeld <sup>5</sup>
7–9	102(b)	Beighton
20	103(a)	Beighton
10–14, 16	103(a)	Beighton, DiMartino <sup>6</sup>

## ANALYSIS

### *Obviousness Based on Beighton and Schoenfeld*

#### Independent Claim 1

In rejecting independent claim 1, the Examiner relies on Beighton to disclose most of the limitations. Final Act. 4–6. In particular, the Examiner finds Beighton discloses erecting a permanent building with an infrastructure grid, forming a first generation of functional units having a specific first purpose, connecting the first generation of the functional units to the infrastructure grid via standardized connections, and forming a second generation of functional units having a specific second purpose that differs at least partially from the specific first purpose. *Id.*

Beighton discloses a building structure comprising a support module and one or more room modules that are independently attached to the

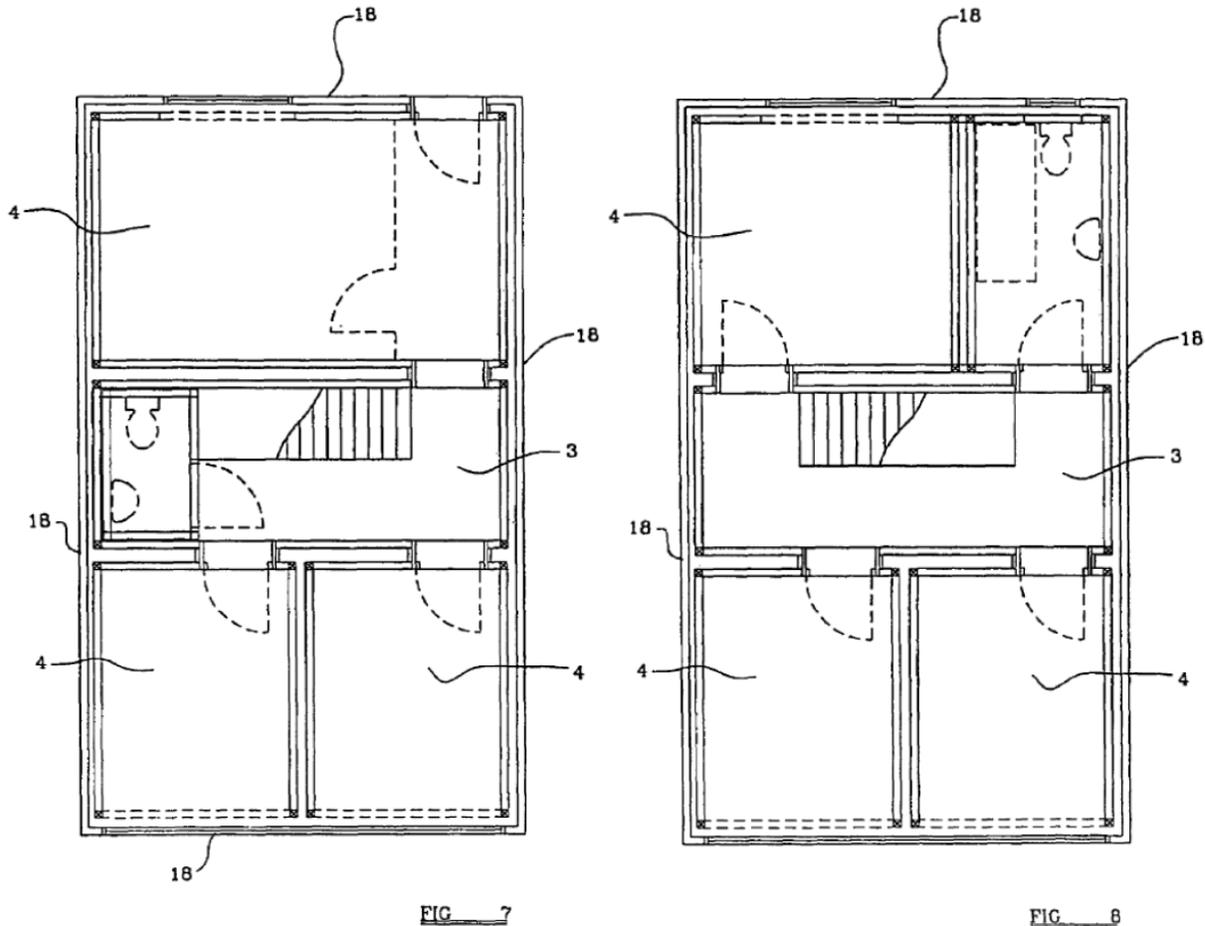
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<sup>4</sup> US 6,959,515 B1, issued Nov. 1, 2005.

<sup>5</sup> US 5,474,411, issued Dec. 12, 1995.

<sup>6</sup> US 4,599,829, issued July 15, 1986.

support module to allow independent removal or addition of room modules. Beighton, Abstract. Figures 7 and 8 of Beighton, reproduced below, depict plan views of the ground floor and first floor, respectively, of the building structure. *Id.* at 4:1–4.



Figures 7 and 8 of Beighton show support modules 3 and a plurality of room modules 4, namely a kitchen module, a living room module, a dining room module, three bedroom modules, and a bathroom room module. *Id.* at 7:37–42. The building is assembled by bolting room modules 4 to support modules 3, and an appropriate roof structure and cladding 18 can be added. *Id.* at 7:44–47. Beighton further discloses the services for the building, e.g., water, gas, electricity, telecommunications, air conditioning, heating,

vacuum pressure, computer network cabling, and video and audio feeds, are principally routed through the support modules, thereby facilitating the connection of services to each room module attached to the support module. *Id.* at 3:10–13, 7:12–17.

Although Beighton’s various room modules, e.g., bathroom and bedroom modules, which the Examiner relies on for disclosing the recited first and second generations of functional units, are removable, the Examiner acknowledges Beighton does not expressly disclose the claim limitations reciting “replacing the first generation of the functional units with the second generation of the functional units” and “connecting the second generation of the functional units to the infrastructure grid via the standardized connections in the first bays.” Final Act. 6. To teach these limitations, the Examiner relies on Schoenfeld. *Id.*

Schoenfeld teaches a multistory structure for chemical plants. Schoenfeld 1:42–43. Figure 2 of Schoenfeld, reproduced below, is an elevational view of a multistory chemical plant. *Id.* at 2:41–42.

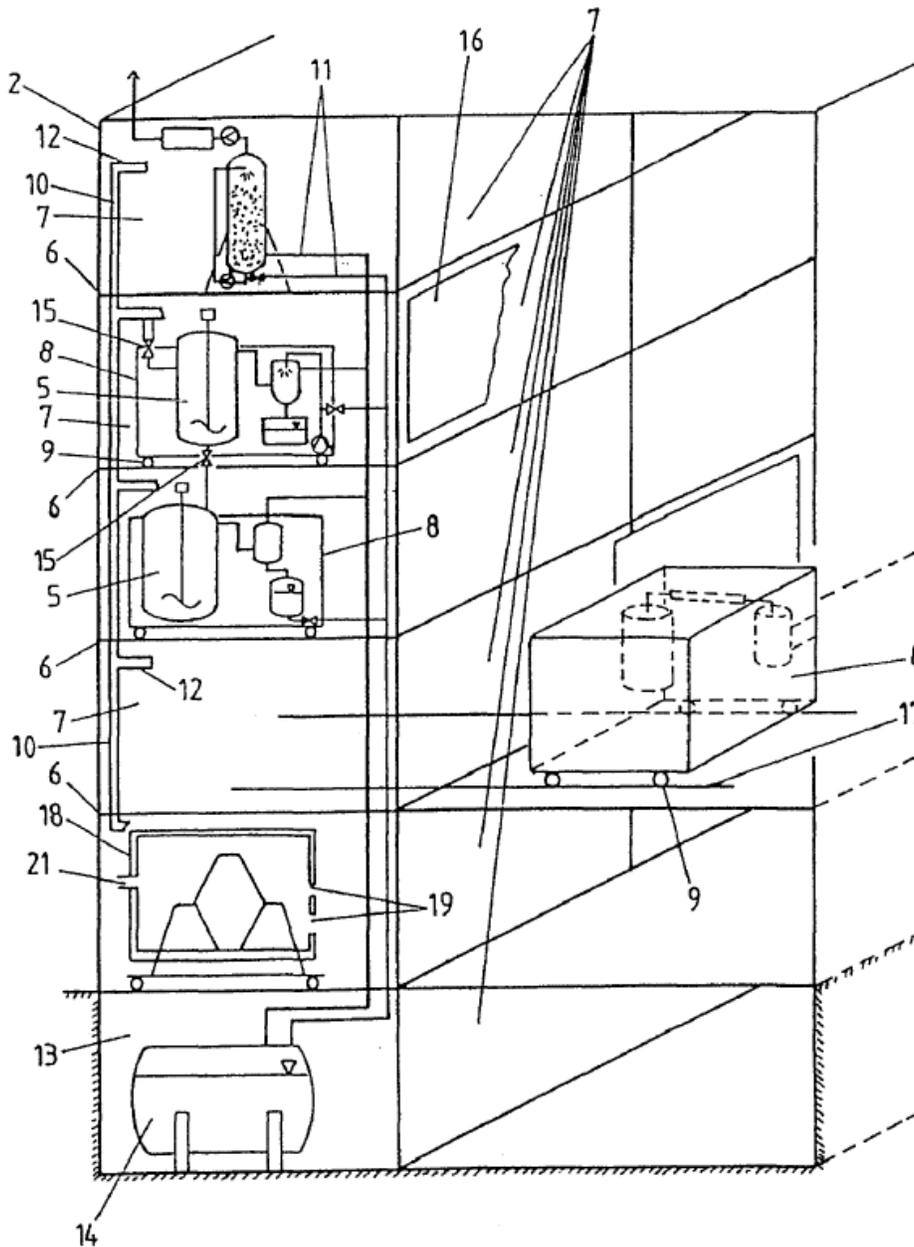


FIG. 2

Figure 2 of Schoenfeld shows structural segments 2 subdivided into individual rooms 7. *Id.* at 3:13–16. Structural segments 4 contain vertically-located supply lines 10 and removal lines 11. *Id.* at 3:25–35. Mobile frames 8 contain plant components 5 and the necessary connections, and are moved in and out of rooms 7 through access openings 16. *Id.*

at 3:18–22, 36–37. By having the plant components and associated connections on mobile frames, the plant components can be simply and rapidly replaced. *Id.* at Abstract, 1:56–62, 2:15–29.

According to the Examiner, it would have been obvious to combine the teachings of Beighton and Schoenfeld to result in the claimed invention.

Final Act. 6. Namely, the Examiner determines it would have been obvious to remove the first units and replace them with second units connected to the same infrastructure grid, as it is known to update or refurbish a building according to a user's needs, and that the second units would need to be connected in the same manner as the first units, as rooms in a building have generally the same infrastructure requirements.

*Id.*

Appellant argues neither Beighton nor Schoenfeld discloses replacing the first generation of functional units having a specific first purpose defining the usage of each one of the first generation of functional units with a second generation of functional units having a specific second purpose that defines the usage of each of the second generation of functional units and that differs at least partially from the specific first purpose, as independent claim 1 requires. Appeal Br. 13–14; Reply Br. 3–4. Per Appellant, Beighton discloses that room modules 4 are entirely independent of one another, not that they are interchangeable. Appeal Br. 13. Appellant further asserts Schoenfeld teaches the plant components are replaceable with others, but does not specify whether the others are different from the ones being replaced. *Id.* at 14.

Appellant's arguments regarding Beighton and Schoenfeld individually do not apprise us of error in the Examiner's rejection, which is based on the combined teachings Beighton and Schoenfeld. *See In re*

*Keller*, 642 F.2d 413, 426 (CCPA 1981) (“[O]ne cannot show non-obviousness by attacking references individually where, as here, the rejections are based on combinations of references.”). Schoenfeld teaches removing functional units, i.e., mobile frames equipped with plant components, and replacing them with others. Schoenfeld 2:15–23. As the Examiner explains in the Answer, Beighton similarly discloses replacing functional units, i.e., room modules, and Beighton further discloses that, by providing replaceable rooms, the rooms can be readily upgraded to a higher specification or changed to a different functionality. Ans. 3 (citing Beighton 1:45–48). Although Beighton refers to the room modules being entirely independent of the other room modules (Beighton 6:9–10), we disagree with Appellant that this reference precludes a room module from being replaced with a room module having a different functionality. Rather, Beighton discloses that the room modules are independently attached to the support modules. *Id.* at 6:3–10. In view of Schoenfeld’s teaching of replacing functional units, and Beighton’s disclosure of replacing functional units to change functionality, Appellant does not apprise us of error in the Examiner’s determination that a person of ordinary skill in the art would have combined the teachings of Beighton and Schoenfeld to result in replacing the first generation of functional units with a second generation of functional units having a different usage.

Appellant also argues neither Beighton nor Schoenfeld teaches connecting each of the first generation and second generation of functional units to the infrastructure grid via standardized connections to transfer the energy, material, and data from the infrastructure grid, as independent claim 1 requires. Appeal Br. 13–15; Reply Br. 4–5. With respect to

Beighton, Appellant contends the Examiner acknowledges Beighton does not disclose connecting the second generation of functional units to the infrastructure grid. Appeal Br. 14. In regard to Schoenfeld, Appellant contends it teaches the connections are made to the “appropriate ring lines and distributors,” and thus fails to teach standardized connections for connecting both the first and second generation of functional units to transfer the energy, material, and data from the infrastructure grid. *Id.* at 15 (quoting Schoenfeld 2:27–28).

Appellant’s arguments regarding Beighton and Schoenfeld individually are not persuasive of Examiner error. The Examiner finds Beighton discloses an infrastructure grid for energy, material, and data. Final Act. 4–5. Indeed, Beighton discloses the support modules provide the principal route for all services to the room modules, whereby the services include water, gas, electricity, telecommunications, air-conditioning, heating, vacuum, computer network cabling, and video and audio feeds. Beighton 7:12–17. Schoenfeld similarly teaches an infrastructure grid, namely structural segments 4 containing vertically-located supply lines 10 and waste removal lines 11 connected in tiers to horizontally-running ring lines 12. Schoenfeld 3:26–29. Schoenfeld further teaches mobile units 8 received in rooms 7 are connected to ring lines 12 via quick connections 15, flexible hose connections, or plug connections. *Id.* at 2:25–29, 3:29–31, Fig. 2. Given Beighton’s disclosure of an infrastructure grid for energy, material, and data, and Schoenfeld’s teaching of connecting functional units, i.e., mobile frames equipped with plant components, to the infrastructure grid via standardized connections in the bays, Appellant does not apprise us of error in the Examiner’s determination that the combined teachings of

Beighton and Schoenfeld would result in connecting the first generation and second generation of functional units to the infrastructure grid via standardized connections to transfer the energy, material, and data from the infrastructure grid.

Appellant further argues Beighton and Schoenfeld are silent regarding “the at least one of the production or operating devices of the first generation of the functional units includes a service life that is different from a service life of the different one of the production or operating devices of the second generation of the functional units” as recited in independent claim 1.<sup>7</sup>

Appeal Br. 15–16; Reply Br. 5–8. Appellant’s argument is not convincing.

The Examiner relies on Beighton’s various room modules, e.g., bathroom and bedroom modules, for disclosing the first and second generation functional units, and the Examiner finds the different room modules have different production or operating devices, e.g., toilet and bed. Final Act. 5–6. The Examiner explains the different operating devices require updating at different times. *Id.* at 9; Ans. 4. We agree with the Examiner that a person of ordinary skill in the art would understand different operating devices, e.g., toilet and bed, have different service lives. *See In re Preda*, 401 F.2d 825, 826 (CCPA 1968) (“[I]n considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom.”); *In re Jacoby*, 309 F.2d 513,

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<sup>7</sup> Prior to the Final Office Action, this limitation was set forth in claim 17. Amendment filed September 19, 2016; Final Act. 9. As noted above, after the Final Office Action, Appellant amended independent claim 1 to include the subject matter of claim 17 and canceled claim 17. *See supra* n.3.

516 (CCPA 1962) (explaining that persons skilled in the art “must be presumed to know something” about the art “apart from what the references disclose”).

Additionally, Appellant argues the Examiner impermissibly fails to give patentable weight to the limitations reciting an intended use. Appeal Br. 16–18. The Examiner, however, does not ignore these limitations. To the contrary, the Examiner finds that the limitations reciting an intended use, i.e., a function, do not result in a structural difference between the claimed invention and the cited prior art, and that the prior art is capable of performing the recited functions. Final Act. 7; Ans. 4; *see also In re Swinehart*, 439 F.2d 210, 213 (CCPA 1971) (“[W]here the Patent Office has reason to believe that a functional limitation . . . may . . . be an inherent characteristic of the prior art, it possesses the authority to require the applicant to prove that the subject matter shown to be in the prior art does not possess the characteristic relied on.”).

In view of the foregoing, Appellant does not apprise us of error in the Examiner’s rejection of independent claim 1. We thus sustain the rejection.

### Claim 2

Claim 2 depends from independent claim 1. Appeal Br., Claims App. Claim 2 recites “wherein at least some of the functional units of the first generation are transported, after being replaced, to a second building remote from the site, and are inserted and utilized in the second building.” *Id.*

The Examiner acknowledges Beighton does not disclose the limitation of claim 2, but determines it would have been obvious that “if the modules can be removed and are replaceable, that they may be placed in a second

building on a second site.” Final Act. 7. The Examiner further determines it would have been obvious that, “as the modules are disclosed as being removable, the displaced modules are fully capable of being placed elsewhere where they may continue to be utilized.” Ans. 5.

Appellant argues the Examiner has not found the limitation of claim 2 in the prior art, and fails to provide support for the determination of obviousness, such as prior art evidence of a teaching that precisely suggests why a person of ordinary skill in the art would have modified the cited references to achieve the claimed subject matter. Appeal Br. 18.

Appellant’s arguments are not persuasive of error.

In rejecting independent claim 1, from which claim 2 depends, the Examiner finds Beighton discloses transporting, installing, and utilizing the first generation of functional units in a building. Final Act. 5. The Examiner proposes to modify Beighton to perform these same steps in a second building such that the Examiner’s proposed modification is simply the duplication of steps, which is obvious absent a new and unexpected result brought about by the duplication. *In re Harza*, 274 F.2d 669, 774 (CCPA 1960) (“It is well settled that the mere duplication of parts has no patentable significance unless a new and unexpected result is produced.”).

Nonetheless, the Examiner reasons it would have been obvious to perform these same steps in a second building to continue to use the functional units, i.e., reuse the functional units in another building. Ans. 5. Although the Examiner’s reason may not be derived explicitly from the cited prior art, the reason need not come from the references themselves.

The suggestion to combine may be found in explicit or implicit teachings within the references themselves, from the ordinary knowledge of those skilled in the art, or from the nature of the

problem to be solved. When determining the patentability of a claimed invention which combines two known elements, the question is whether there is something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.

*WMS Gaming Inc. v. Int'l Game Tech.*, 184 F.3d 1339, 1355 (Fed. Cir. 1999) (citations and internal quotations omitted). Furthermore, “we have repeatedly held that an implicit motivation to combine exists . . . when the ‘improvement’ is technology-independent and the combination of references results in a product or process that is more desirable, for example because it is stronger, cheaper, cleaner, faster, lighter, smaller, more durable, or more efficient.” *Dystar Textilfarben GmbH & Co. Deutschland KG v. C.H. Patrick Co.*, 464 F.3d 1356, 1368 (Fed. Cir. 2006). Reusing materials is a technology-independent improvement, and thus there is an implicit motivation to modify Beighton to include the limitation of claim 2.

For these reasons, Appellant does not apprise us of error in the Examiner’s determination that the subject matter of claim 2 would have been obvious. We sustain the rejection of claim 2.

### Claim 3

Claim 3 depends from claim 2. Appeal Br., Claims App. Claim 3 recites

wherein the operating or production devices are removed from at least some of replaced ones of the functional units at one or more locations remote from the site, and the pallets of the replaced ones of the functional units thereby obtained, which are neutral with respect to the utilization thereof, are reequipped or stored.

*Id.*

The Examiner acknowledges Beighton does not disclose the limitation of claim 3, but determines it would have been obvious “that the functional unit[], after being removed and replaced because it is no longer necessary, be refurbished into a different and required functional unit having a different purpose and that the production or operating devices would be removed and replaced with new production and operating devices as needed.” Final Act. 7. The Examiner further determines it would have been obvious that “as the units are no longer needed for their initial purpose, it would be obvious to refurbish them into a unit that is needed with equipment that is needed for that room rather than discarding the outdated unit.” Ans. 5.

Appellant makes the same arguments for claim 3 as for claim 2. Namely, Appellant argues the Examiner has not found the limitation of claim 3 in the prior art, and fails to provide support for the determination of obviousness, such as prior art evidence of a teaching that suggests why a person of ordinary skill in the art would have modified the cited references to achieve the claimed subject matter. Appeal Br. 19. Appellant’s arguments for claim 3 are unpersuasive for essentially the same reasons they are not persuasive with respect to claim 2.

In rejecting independent claim 1, from which claim 3 depends, the Examiner finds Beighton discloses equipping pallets with production or operating devices to form functional units. Final Act. 5. The Examiner proposes to modify Beighton to reequip, i.e., refurbish, the pallets such that the Examiner’s proposed modification is essentially the replication of the equipping step, which is obvious absent a new and unexpected result. *See supra In re Harza*, 274 F.2d at 774. Moreover, the Examiner reasons it would have been obvious to refurbish the pallets to avoid discarding them.

Ans. 5. As discussed above with respect to claim 2, reusing materials is a technology-independent improvement and provides an implicit motivation to modify Beighton to include the limitation of claim 3. *See supra Dystar*, 464 F.3d at 1368. Being unpersuaded of error in the rejection of claim 3, we sustain the rejection.

Claim 4

Claim 4 depends from claim 3, and further recites first and second groups of operating or production devices. Appeal Br., Claims App.

Namely, claim 4 recites:

wherein the operating or production devices include:  
a first group including at least one of:  
chemical, biological, physical or nutritional  
production devices,  
laboratory facilities,  
pilot plants, and  
offices; and  
a second group including at least one of:  
technical building equipment,  
heating systems,  
air-conditioning systems,  
ventilation systems,  
fire extinguishing systems,  
storage rooms,  
product handling facilities,  
electronic control systems,  
process management equipment,  
compressed air supply systems,  
water supply systems,  
power supply systems,  
sewage systems,  
systems to provide starting materials,  
systems to provide process energy including  
heat or cold,

exhaust treatment systems including thermal afterburners, activated carbon adsorption, exhaust gas scrubbing, sanitary systems, and staff rooms.

*Id.*

Appellant argues the Examiner has not sufficiently explained how Beighton discloses operating or production devices from the recited first and second groups. Appeal Br. 20. Appellant's argument is not convincing.

The Examiner relies on Beighton's toilet for disclosing operating or production devices. Final Act. 8. A toilet is, at least, a sewage system and a sanitation system, and, thus, discloses operating or production devices from the recited second group. The Examiner also relies on Beighton's sink for disclosing operating or production devices (*id.* at 2), and a sink discloses the recited second group at least as a water supply system. The Examiner further finds Schoenfeld discloses mobile frames having various plant parts, i.e., operating or production devices. Ans. 4 (citing Schoenfeld 2:15–29). Indeed, Schoenfeld's plant parts teach the recited first group of operating or production devices as chemical production devices, laboratory facilities, and pilot plants.

For these reasons, Appellant does not apprise us of error in the Examiner's determination that the combined teachings of Beighton and Schoenfeld would result in the first and second groups of operating or production devices recited in claim 4. We, therefore, sustain the rejection of claim 4.

Claim 5

Claim 5 depends from claim 4. Appeal Br., Claims App. Claim 5 recites:

installing in the building at least one of the functional units including the operating or production devices from the first group,

installing in the building at least one of the functional units including the operating or production devices from the second group,

and the at least one of the functional units including the operating or production devices of the second group remains in the building when the at least one of the functional units including the operating or production devices of the first group is replaced.

*Id.*

The Examiner acknowledges Beighton does not disclose the last limitation of claim 5, i.e., “the at least one of the functional units including the operating or production devices of the second group remains in the building when the at least one of the functional units including the operating or production devices of the first group is replaced.” Final Act. 8. The Examiner determines it would have been obvious that “since the modular units are removable, some can remain intact when others are removed.” *Id.*

Appellant reiterates its arguments for claims 2 and 3 for claim 5. Namely, Appellant argues the Examiner has not found the last limitation of claim 5 in the prior art, and fails to provide support for the determination of obviousness, such as prior art evidence of a teaching that suggests why a person of ordinary skill in the art would have modified the cited references to achieve the claimed subject matter. Appeal Br. 21. Appellant’s arguments for claim 5 are similarly unpersuasive as its arguments for claims 2 and 3.

In rejecting independent claim 1, from which claim 5 depends, the Examiner finds Beighton discloses installing functional units in the building. Final Act. 5. The Examiner proposes to modify Beighton to reinstall, i.e., replace, certain functional units such that the Examiner's proposed modification is essentially the duplication of the installing step, which is obvious absent a new and unexpected result. *See supra In re Harza*, 274 F.2d at 774. That notwithstanding, the Examiner further finds Beighton teaches functional units having different service lives, and reasons it would have been obvious to replace a functional unit at the end of its service life, which, in view of the different service lives, would result in a functional unit having operating or production devices from the first group while a functional unit having operating or production devices from the second group remains in the building. Ans. 6. Replacement upon exhaustion is a technology-independent improvement and provides an implicit motivation to modify Beighton to include the limitation of claim 5. *See supra Dystar*, 464 F.3d at 1368. Accordingly, Appellant does not apprise us of error in the Examiner's determination that the subject matter of claim 5 would have been obvious, and we sustain the rejection of claim 5.

Claim 6

Claim 6 depends from claim 5. Appeal Br., Claims App. Claim 6 recites:

wherein the operating or production devices are at least one of the chemical production devices and the laboratory facilities, which are replaceable with the offices, or  
the operating or production devices are the offices, which are replaceable with at least one of the chemical production devices and the laboratory facilities.

*Id.*

The Examiner acknowledges Beighton does not disclose the limitations of claim 6, and determines it would have been obvious “to utilize the modules in the way a user sees fit, as Beighton leaves the modules open to their preferred utilization.” Final Act. 9. The Examiner further determines that “the term ‘replaceable’ is an intended use statement,” and that “the claim language only requires that the device be an office OR [] chemical production devices or a laboratory facility which is capable of being replaced.” Ans. 6.

Appellant argues the Examiner has not found the limitations of claim 6 in the prior art, and fails to provide support for the determination of obviousness. Appeal Br. 22. Appellant’s arguments for claim 6 are the same as its arguments for claims 2, 3, and 5, but, with respect to claim 6, they are persuasive.

We begin by construing the scope of claim 6. Claim 6 recites two alternatives for replaceable operating or production devices. We agree with the Examiner that claim 6 requires just one of the recited alternatives. We, however, disagree that either alternative requires only that the operating or production devices be capable of being replaced. Rather, claim 6 expressly specifies that operating or production devices are replaceable, i.e., capable of being replaced, with another type of operating or production devices. More specifically, the first alternative requires that the operating or production devices be at least one of the chemical production devices and the laboratories, which are replaceable with offices, and the second alternative requires that the operating or production devices are offices, which are

replaceable with at least one of the chemical production devices and the laboratory facilities.

The Examiner finds Beighton discloses offices because any room in a building can be considered an office. Ans. 5–6. As set forth above, however, the Examiner relies on Beighton’s room modules for disclosing the recited functional units (Final Act. 5–6), and has not demonstrated persuasively that a room acting as an office discloses operating or production devices that are offices. Absent a teaching of operating or production devices that are offices, the Examiner has not explained how the combined teachings of Beighton and Schoenfeld would result in operating or production devices being at least one of the chemical production devices and the laboratories, which are replaceable with offices, or operating or production devices being offices, which are replaceable with at least one of the chemical production devices and the laboratory facilities, as claim 6 requires. We, therefore, do not sustain the rejection of claim 6.

Claim 19

Claim 19 depends from independent claim 1. Appeal Br., Claims App. Claim 19 recites:

wherein at least one of the pallets includes an installation wall extending vertically on the at least one of the pallets and extending along a longitudinal side of the at least one of the pallets, at least one of the production or operating devices is installed on the installation wall, and the standardized connections are connected to the installation wall.

*Id.*

The Examiner finds Beighton’s sink being installed on a wall of a bathroom room module discloses the recited production or operating devices

installed on the vertically-extending installation wall. Final Act. 9. The Examiner acknowledges Beighton does not explicitly disclose the standardized connections connected to the installation wall, but determines it would have been obvious “that the sink would somehow need to be connected to the standardized connections (plumbing) in order for it to function as a sink.” *Id.*

Appellant reiterates the same arguments for claims 2, 3, 5, and 6 for claim 19. Namely, Appellant argues the Examiner has not found the last limitation of claim 19 in the prior art, and fails to provide support for the determination of obviousness, such as prior art evidence of a teaching that suggests why a person of ordinary skill in the art would have modified the cited references to achieve the claimed subject matter. Appeal Br. 23–24. Appellant’s arguments are not convincing. As the Examiner explains, a person of ordinary skill in the art would have understood that the building would require plumbing, i.e., standardized connections, within the wall to which the sink was attached for the sink to function as a sink. Ans. 7; *see supra In re Preda*, 401 F.2d at 826; *In re Jacoby*, 309 F.2d at 516. Given that a person of ordinary skill would have understood from Beighton’s disclosure of sink mounted to a wall that the standardized connections for the sink are similarly mounted to the wall, Appellant does not apprise us of error in the rejection of claim 19. We, therefore, sustain the rejection of claim 19.

*Anticipation Based on Beighton*

*Independent Claim 7*

Independent claim 7 is similar to independent claim 1. Appeal Br., Claims App. Independent claim 7, however, recites a system, whereas independent claim 1 recite a method. *Id.*

Appellant argues Beighton fails to disclose three limitations of independent claim 1 for the reasons the prior art does not disclose the similar limitations of independent claim 7. Appeal Br. 25–26. Firstly, Appellant contends Beighton fails to disclose a first functional unit, which has a first purpose defining the usage of the first functional unit in the building, replaceable with a second functional unit having a second purpose that defines the usage of the second functional unit in the building and that differs at least partially from the first purpose. *Id.* This argument is not persuasive of error. As the Examiner finds, Beighton discloses different room modules with different usages, e.g., kitchen room module, living room module, dining room module, bedroom room module, bathroom room module, and further discloses the rooms are replaceable so that their functionality can be changed. Final Act. 2–3; Ans. 3; Beighton 1:45–48, 7:37–42, Figs. 7–8.

Second, Appellant argues Beighton does not disclose first and second functional units that are connectable to the infrastructure grid via standardized connections in the first bay to transfer the energy, material, and data from the infrastructure grid. Appeal Br. 25–26. Appellant’s argument is not convincing. Unlike independent claim 1, which recites connecting first and second generations of functional units to the infrastructure grid, independent claim 7 recites first and second functional units that are

connectable, i.e., capable of being connected, to the infrastructure grid. The Examiner finds, and we agree, Beighton's different room modules, i.e., first and second functional units, are connectable to the infrastructure grid via standardized connections because the room modules connect to the building's services, e.g., electricity, water, and computer network cabling, housed within the support modules, and are replaceable with different room modules. Final Act. 3; Beighton 3:10–13, 7:12–17.

Third, Appellant asserts Beighton does not disclose “the first of the production or operating devices of the first functional unit includes a service life that is different from a service life of the second of the production or operating devices of the second functional unit” as recited in independent claim 7.<sup>8</sup> Appeal Br. 25–26. This argument is not persuasive of error for the reasons stated above with respect to independent claim 1. Namely, we agree with the Examiner that a person of ordinary skill in the art would understand different operating devices, e.g., toilet and bed, have different service lives. Final Act. 10; Ans. 4; *see supra In re Preda*, 401 F.2d at 826; *In re Jacoby*, 309 F.2d at 516.

For these reasons, Appellant does not apprise us of error in the Examiner's rejection of independent claim 7. We, therefore, sustain the rejection.

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<sup>8</sup> Prior to the Final Office Action, this limitation was set forth in claim 18. Amendment filed September 19, 2016; Final Act. 10. As noted above, after the Final Office Action, Appellant amended independent claim 7 to include the subject matter of claim 18 and canceled claim 18. *See supra* n.3.

Claims 8 and 9

Appellant does not present arguments for claims 8 and 9 apart from independent claim 7. Appeal Br. 26. For the same reasons as set forth for independent claim 7, we sustain the rejection of claims 8 and 9.

*Obviousness Based on Beighton*

Claim 20 depends from independent claim 7. Appeal Br., Claims App. Claim 20 recites the same limitation as claim 19 quoted above. *Id.*

The Examiner's rejection of claim 20 is similar to the rejection of claim 19. *Compare* Final Act. 10, *with id.* at 9. Appellant's arguments for claim 20 echo the arguments for claim 19. *Compare* Appeal Br. 26–27, *with id.* at 23–24. For the reasons stated above with respect to claim 19, Appellant's arguments are unpersuasive of error. Accordingly, we similarly sustain the rejection of claim 20.

*Obviousness Based on Beighton and DiMartino*

Claims 10 and 12–14

Appellant does not present arguments for claims 10 and 12–14 apart from independent claim 7. Appeal Br. 27–29. For the same reasons as set forth for independent claim 7, we sustain the rejection of claims 10 and 12–14.

Claim 11

Claim 11 ultimately depends from independent claim 7. Appeal Br., Claims App. Claim 11 recites “more than one of the building which are provided with bays and are situated at a distance from one another.” *Id.*

The Examiner finds Beighton discloses a building, but does not specifically disclose the limitation of claim 11. Final Act. 11. The Examiner determines it would have been obvious “to build more than one buildings of the prior art and that any two buildings would be a distance from one another.” *Id.*

Appellant argues the Examiner has not found the limitation of claim 11 in the prior art, and fails to provide support for the determination obviousness, such as prior art evidence of a teaching that precisely suggests why a person of ordinary skill in the art would have modified the cited references to achieve the claimed subject matter. Appeal Br. 28. Appellant’s arguments are not persuasive of error. As the Examiner explains, Beighton discloses a building, and the Examiner’s proposed modification is simply the duplication of parts, which is obvious absent a new and unexpected result brought about by the duplication. Ans. 7; *see supra In re Harza*, 274 F.2d at 774.

### Claim 16

Claim 16 depends from claim 5. Appeal Br., Claims App. Appellant’s arguments for claim 16 are the same as the arguments for claim 5. *Compare* Appeal Br. 29–31, *with id.* at 21–22. For the reasons set forth above with respect to claim 5, Appellant’s arguments are unpersuasive of error. Accordingly, we similarly sustain the rejection of claim 16.

CONCLUSION

<b>Claim(s) Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1-6, 19	103(a)	Beighton, Schoenfeld	1-5, 19	6
7-9	102(b)	Beighton	7-9	
20	103(a)	Beighton	20	
10-14, 16	103(a)	Beighton, DiMartino	10-14, 16	
<b>Overall Outcome</b>			1-5, 7-14, 16, 19, 20	6

TIME PERIOD FOR RESPONSE

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED IN PART