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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ANDREW MARSHALL and ROBERT L. PITTS

Appeal 2010-001076
Application 11/536,884
Technology Center 2800

Before JOSEPH L. DIXON, ST. JOHN COURTENAY III,
and CARLA M. KRIVAK, *Administrative Patent Judges*.

DIXON, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1 and 3-12. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

STATEMENT OF THE CASE

Appellants' claimed invention relates to an electronic circuitry and, in particular, to circuitry for reliability testing as a function of slew. (Spec. 1).

Independent claim 1, reproduced below, is representative of the subject matter on appeal.

1. A reliability test chain comprising:

a stress chain; and

transition time control circuits coupled to tap points along the stress chain such that transition times of a signal on the stress chain are controlled,

wherein the transition time control circuits comprise;

a transmission gate coupled to the stress chain;

a capacitor coupled to the transmission gate; and

a discharging transistor coupled in parallel with the capacitor.

REFERENCES and REJECTIONS

The Examiner rejected claims 1, 3-6, and 8-11 under 35 U.S.C. § 103(a) based upon the teachings of Iwamoto (US 5,946,268) in view of Shin (US Pat. Pub. App. No. 2007/0069784 A1).

The Examiner rejected claims 7 and 12 under 35 U.S.C. § 103(a) based upon the teachings of Iwamoto and Shin in view of Okuno (US Pat. Pub. App. No. 2004/0070434 A1).

ANALYSIS

Appellants' sole argument for claims 1 and 8 is that:

Claims 1 and 8 include "... a discharging transistor coupled in parallel with the capacitor". The references of record do not show, teach, or suggest the above recited limitations of claims 1 and 8. In U.S. Patent No. 5,946,268, Transistors 34 and 35, in Figure 10, are selectively rendered to alter the current to capacitor 36. If transistor 34 in U.S. Patent No. 5,946,268 is replaced by the transistor in Figure 3 of U.S. Patent Application Publication No. 2007/0069784 that is connected in parallel with capacitor 4C, the current to capacitor 36, in U.S. Patent No. 5,946,268, would not be selectively rendered as required in U.S. Patent No. 5,946,268. If transistor 34 of U.S. Patent No. 5,946,268 is replaced by a transistor coupled in parallel with capacitor 36, the device disclosed in Figure 10 of U.S. Patent No. 5,946,268 will not function as intended. Therefore, it is not obvious to insert the control circuit from U.S. Patent Application Publication No. 2007/0069784 into the device of U.S. Patent No. 5,946,268 to obtain the invention of claims 1 and 8.

(App. Br. 5). Appellants' do not explain why and how the combined teachings would not function as intended. Moreover, attorney arguments and conclusory statements that are unsupported by factual evidence are entitled to little probative value. *In re Geisler*, 116 F.3d 1465, 1470 (Fed. Cir. 1997); *see also In re De Blauwe*, 736 F.2d 699, 705 (Fed. Cir. 1984). "Argument in the brief does not take the place of evidence in the record." *In re Schulze*, 346 F.2d 600, 602 (CCPA 1965) (citing *In re Cole*, 326 F.2d 769, 773 (CCPA 1964)).

The Examiner responds to Appellants' argument maintaining that the combination:

would be obvious to one skilled in the art at the time the invention was made since the implementation of the control circuit taught by Shin '784 with the delay line taught by Iwamoto '268 would be routine to one skilled in the art with no change in their respective functions because both control circuits alter the current flowing to a capacitor by turning the transistors on and off with control signals (Iwamoto '268 Column 11: lines 66-67 and Column 12: lines 1-4 and Shin '784 Paragraph 0015), in order to control slew rate that is insensitive to process, voltage, and temperature (PVT) variations which will provide a more stable signal as PVT variations have a negative effect on signal integrity (Shin '784 Paragraphs 0012 and 0018).

(Ans. 8-9). We agree with the Examiner's reasoned conclusion. Appellants elected to not file a Reply Brief to further address the Examiner's response to Appellants' sole argument. Therefore, Appellants' have not shown error in the Examiner's conclusion of obviousness of representative independent claim 1. Thus, we will sustain the rejection of representative independent claim 1 along with independent claim 8 and dependent claims 3-6 and 8-11 grouped therewith.

Appellants repeat the same general argument for dependent claims 7 and 12 which, for the above reasons, we find unpersuasive of error in the Examiner's conclusion of obviousness. Therefore, we will sustain the rejection of dependent claims 7 and 12.

CONCLUSION

The Examiner did not err in rejecting claims 1, and 3-12 as obvious under 35 U.S.C. § 103.

Appeal 2010-001076
Application 11/536,884

DECISION

The Examiner's decision rejecting claims 1, and 3-12 is affirmed.

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

AFFIRMED

Pgc/peb