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

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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* PETER F. GERHARDINGER

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Appeal 2010-006463  
Application 11/200,724  
Technology Center 3700

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Before: JOHN C. KERINS, JEREMY M. PLENZLER, and  
BEVERLY M. BUNTING, *Administrative Patent Judges*.

PLENZLER, *Administrative Patent Judge*.

DECISION ON APPEAL

### STATEMENT OF CASE

Appellant seeks our review under 35 U.S.C. § 134 of the Examiner's decision rejecting claims 3-11, 14, 15, and 18-24. Claims 1, 2, 12, 13, 16, and 17 are cancelled. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

### CLAIMED SUBJECT MATTER

Claims 18, 21, and 23 are independent. Claim 18, reproduced below, is illustrative of the claimed subject matter:

18. A heated glass panel assembly, comprising:
  - a panel comprised of at least one of an insulated glass panel, a laminated glass panel, and a single glass panel, the panel having a conductive coating disposed thereon;
  - a member comprised of at least one of a frame, a cover, a chase, and a mounting member, the member being disposed on a periphery of the panel; and
  - at least one triac disposed within the member and in direct thermal contact with a thermally conductive area of the member.

### REJECTIONS

1. Claims 4, 5, 11, 18, 19, and 23 are rejected under 35 U.S.C. § 102(b) as being anticipated by Wood (US 5,959,816; iss. Sep. 28, 1999);
2. Claims 3 and 6-10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wood and Shlichta (US 4,459,470; iss. Jul. 10, 1984); and
3. Claims 14, 15, 20-22, and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wood and Millett (US 6,144,017; iss. Nov. 7, 2000).

OPINION

*Claims 4, 5, 11, 18, 19, and 23*

Claim 18 is directed to a heated glass panel assembly and claim 23 is directed to a method of conducting heat from a heated glass panel assembly. Claims 18 and 23 each include a glass panel and a member, such as a frame, disposed on a periphery of the panel with “at least one triac disposed within the member and in direct thermal contact with a thermally conductive area of the member.” The Examiner finds that Wood discloses the heated glass panel assembly of claim 18 and the method of claim 23. Specifically, the Examiner finds that Wood discloses “an electronic controller/circuit 70 comprising a triac 84, . . . placed separately in the surrounding frame construction, in a ballast in a surrounding frame or even within [a] door frame (col. 4, lines 30-35), hence the triac 84 [is] in direct thermal contact with the thermal conductive area of the member 30.” Ans. 3.

Appellant argues that “Wood **fails** at least to dispose the triac 84 in direct thermal contact with a thermally conductive area of the member.” App. Br. 9. Appellant explains that “Wood states that ‘the circuit 70 may be placed separately in the surrounding frame construction, in a ballast in a surrounding frame or even within [a] door frame,’” but “does not illustrate nor does he teach or suggest anywhere therein that a triac is placed in direct thermal contact with a thermally conductive area of a member.” App. Br. 9.

In response, the Examiner asserts that “[i]t is inherent to have direct thermal contact [with a] thermally conductive area” because “[a]ccording to Wood, (column 4, lines 30-35), circuit 70 may be placed *in* a frame.” Ans. 12. Appellant argues that “direct thermal contact and thermally conductive areas are not necessarily disclosed in Wood.” Reply Br. 3. We agree.

Column 4, lines 30-35 of Wood, simply mention that “[t]he circuit **70** may be placed separately in the surrounding frame construction, in a ballast in a surrounding frame or even within the door frame.” Wood does not disclose where the triac would be located in any of the surrounding frame construction, the ballast, or the door frame and certainly does not discuss any relation between the triac and a thermally conductive area of the surrounding frame construction, the ballast, or the door frame. Further, while it may be possible to have the triac in Wood in direct thermal contact with a thermally conductive area of the surrounding frame construction, for example, the mere possibility of this arrangement is not sufficient to establish a prima facie case of inherent anticipation. “Inherency . . . may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999) (internal citation and quotations omitted).

For these reasons, we agree with Appellant that the Examiner has not established that Wood expressly or inherently discloses the “triac disposed within the member and in direct thermal contact with a thermally conductive area of the member.” Thus, we do not sustain the rejection of claims 18 and 23 and claims 4, 5, 11, and 19 which depend from either claim 18 or 23.

#### *Claims 3 and 6-10*

Claims 3 and 6-10 depend from claim 18. The stated basis for the rejection of claims 3 and 6-10 does not cure the deficiencies in the rejection of claim 18. Thus, the rejection of claims 3 and 6-10 is also not sustained.

*Claims 14, 15, 20-22, and 24*

Independent claim 21 is directed to an assembly of heated glass panels and includes at least two glass panels and at least two members, such as frames, with one member disposed on the periphery of each glass panel. Claim 21 further recites “at least one triac disposed within each member, each triac being in direct thermal contact with a thermally conductive area of a corresponding member.” The Examiner finds that “Wood discloses substantially the claimed invention, but does not disclose the triac with watts/square foot and two heated panels,” a limitation found in dependent claim 20. Ans. 5. The Examiner cites Millett as disclosing “the power triac 92 . . . in thermal contact with the thermal conductive area of the frame 32 . . . and the power dissipation density ranges from 4 to 10 watts/square foot.” *Id.* The Examiner further explains that “[a]s shown in Figure 2, Millett discloses controller 30 located in the frame and as shown in the Figure 6, controller 30 comprises a triac 92, hence in contact with the frame.” Ans. 15.

Appellant again argues that “Wood **fails** at least to dispose the triac 84 in direct thermal contact with a thermally conductive area of the member.” App. Br. 18. To the extent that the Examiner relies on Millett as curing this deficiency in Wood, Appellant contends that Millett also fails to disclose the triac in direct thermal contact with a thermally conductive area of the member (frame). App. Br. 19. We agree that the Examiner has not established that Wood discloses the triac in direct thermal contact with a thermally conductive area of the member (frame) for the reasons set forth above regarding claims 18 and 23. With regard to Millett, we also fail to see where Millett discloses the triac in direct thermal contact with a thermally

conductive area of the frame. Column 12, lines 21-43 and Figures 2, 5, and 6 of Millett (cited by the Examiner as disclosing the thermal contact between the triac and the frame) do not appear to include any disclosure of direct thermal contact between the triac and a thermally conductive area of the frame. Further, the Examiner provides no reasoning why it would have been obvious to include the triac in direct thermal contact with a thermally conductive area of the frame in the proposed modified system of Wood.

For these reasons, we do not sustain the rejection of claim 21 and claims 14, 15, and 22 which depend from claim 21. Claim 20 depends from claim 18 and claim 24 depends from claim 23. For the reasons set forth above, the stated basis for the rejection of claims 20 and 24 does not cure the deficiencies in the rejection of claims 18 and 23. Thus, we also do not sustain the rejection of claims 20 and 24.

#### DECISION

We REVERSE the Examiner's decision to reject claims 3-11, 14, 15, and 18-24.

REVERSED

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