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OSRAM SYLVANIA INC 100 ENDICOTT STREET DANVERS, MA 01923			LEE, JONG SUK	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte CHARLES M. COUSHAINÉ
and LAURA PEACH

Appeal 2010-007248
Application 11/977,939
Technology Center 2800

Before CARLA M. KRIVAK, CARL W. WHITEHEAD JR., and
JAMES R. HUGHES, *Administrative Patent Judges*.

KRIVAK, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 2-7. Claim 1 has been canceled. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

STATEMENT OF THE CASE

Appellants' claimed invention is directed to waterproof light sources employing light emitting diodes (LEDs). (Spec. ¶ [0002])

Independent claim 2, reproduced below, is illustrative.

2. A waterproof portable lamp comprising:

a housing including a first waterproof chamber and a second waterproof chamber,

a light source and a switch for actuating said light source positioned in said first waterproof chamber; and

a replaceable power supply for said light source positioned in said second waterproof chamber, said second chamber being isolated from said first chamber except for electrical connections between said power supply and light source.

REFERENCE and REJECTIONS

Claims 2, 3, 6, and 7 stand rejected under 35 U.S.C. § 102(b) based upon the teachings of Kuo (US Pat. App. Pub. No. 2005/0047122 A1).

Claims 4 and 5 are rejected under 35 U.S.C. § 103(a) based upon the teachings of Kuo.

ANALYSIS

The Examiner finds Kuo teaches all the limitations of Appellants' claims 2, 3, 6, and 7. Particularly, the Examiner finds Kuo teaches a second chamber isolated from a first chamber except for electrical connections between a power supply and light source as recited in claim 2 (Ans. 3-4).

Appellants disagree and contend Kuo does not teach a second chamber isolated from a first chamber except for an electrical connection between a power supply and light source (Br. 8-9). That is, the Examiner's assertion that the area above the circuit board is spatially isolated from a chamber beneath the circuit board (Ans. 4) does not teach this contested claim limitation (Br. 8). A printed circuit board includes traces for allowing connections to various elements and circuits to be connected thereto. Thus, the first and second chambers in Kuo are not isolated from each other *except for the electrical connection between the power supply and light source* as claimed, as other elements could be connected thereto via the traces on the printed circuit board.

With respect to claim 3, we find the Examiner is also incorrect in finding Kuo teaches a flexible, transparent cover (Ans. 4-5). Kuo merely teaches an upper cap 25 that is transparent and "is configured to allow a soft, rubber button" (Kuo, ¶ [0014]). There is no indication in Kuo that the button is transparent or that the upper cap is flexible. Further, claim 3 depends from claim 2, as do claims 6 and 7. Thus, we conclude the Examiner erred in finding Kuo anticipates claims 2, 3, 6, and 7.

Claims 4 and 5 depend from claim 3. As Kuo does not teach a flexible, transparent cover, the durometer hardness of the flexible, transparent cover is also not taught or suggested by Kuo. Thus, we conclude the Examiner erred in finding claims 4 and 5 obvious in view of Kuo.

CONCLUSION

The Examiner erred in rejecting claims 2, 3, 6 and 7 under 35 U.S.C. § 102(b).

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The Examiner erred in rejecting claims 4 and 5 under 35 U.S.C.
§ 103(a).

DECISION

The Examiner's decision rejecting claims 2-7 is reversed.

REVERSED

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