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BROOKS KUSHMAN P.C./FGTL 1000 TOWN CENTER 22ND FLOOR SOUTHFIELD, MI 48075-1238			CARTER, WILLIAM JOSEPH	
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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* DUANE M. GRIDER and BALA CHANDER

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Appeal 2013-003930  
Application 12/493,514  
Technology Center 2800

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Before CHARLES F. WARREN, PETER F. KRATZ, and  
ELIZABETH M. ROESEL, *Administrative Patent Judges*.

ROESEL, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants<sup>1</sup> appeal under 35 U.S.C. § 134(a) from the Decision of the Primary Examiner finally rejecting claims 1–20, as follows: claims 1, 2, and 4–20 under 35 U.S.C. § 102(e) as anticipated by Austin (US 2011/0175569 A1, July 21, 2011) and claim 3 under 35 U.S.C. § 103(a) as unpatentable over Austin. App. Br. 2–4; Ans. 4–7. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

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<sup>1</sup> According to Appellants, the Real Party in Interest is Ford Global Technologies, LLC. App. Br. 2.

Claim 1 is representative of the subject matter on appeal and is set forth below:

1. An automotive vehicle capable of receiving power from an electrical power grid, the vehicle comprising:

a battery charger; and

an exterior lamp assembly including (i) an illumination source and (ii) an electrical port configured to be electrically connected with the electrical power grid, wherein the electrical port is electrically connected with the battery charger.

#### OPINION

We agree with Appellants that the Examiner erred in finding as a matter of fact that Austin describes to one skilled in the art an automotive vehicle comprising an exterior lamp assembly including an electrical port configured to be electrically connected with an electrical power grid. Ans. 4–8; App. Br. 2–3; Reply Br. 2. We determine that the claim language, “an exterior lamp assembly including . . . an electrical port . . .” requires that an electrical port be included as part of an exterior lamp assembly of an automotive vehicle. Our construction is supported by the plain language of independent claims 1, 9 and 17, as well as the portions of the Specification cited in support of the relevant claim limitation. App. Br. 1–2; Spec. Fig. 2 (automotive tail lamp assembly 10 including an electrical port 18); Fig. 3 (lamp assembly 110 including charge port 118); *see also id.* at 5:3–9, 6:22–33 (description of Figs. 2 and 3). *See, e.g., In re Suitco Surface, Inc.*, 603 F.3d 1255, 1259–60 (Fed. Cir. 2010) (PTO “construction [must] be ‘consistent with the specification, . . . and . . . claim language should be read

in light of the specification as it would be interpreted by one of ordinary skill in the art”) (citation omitted); *In re Baker Hughes, Inc.*, 215 F.3d 1297, 1303 (Fed. Cir. 2000) (the PTO cannot adopt a construction that is “beyond that which was reasonable in light of the totality of the written description”); *In re Morris*, 127 F.3d 1048, 1054–55 (Fed. Cir. 1997) (“[T]he PTO applies to the verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in the applicant’s specification.”).

The Examiner finds that Austin teaches an automotive vehicle comprising an exterior lamp assembly, in the form of front surface 172, which includes an electrical port 170. Ans. 4, 7 (citing Austin Figs. 22, 23). According to the Examiner, the front surface 172 of Austin is an exterior device, which includes a headlamp/illumination source, therefore reading on an exterior lamp assembly. *Id.* at 8 (citing Austin Fig. 22). Appellants, on the other hand, contend that Austin’s front surface 172 is not an exterior lamp assembly or part of such an assembly. App. Br. 3; Reply Br. 2.

We determine that a preponderance of the evidence supports Appellants’ position. Austin discloses a vehicle having one or more electrical connectors 170 located in a front surface 172 of the vehicle or in a rear surface 174 of the vehicle. Austin, Figs. 20–23, ¶¶ 155, 156, 159, 161. Although Figures 20 and 22 of Austin show a headlamp adjacent to electrical connector 170, there is no disclosure in Austin, either in the Figures or description, that an electrical port be included as part of an exterior lamp assembly of an automotive vehicle, as required by Appellants’

claims. The Examiner does not direct us to any disclosure in Austin that teaches that front surface 172 or rear surface 174 is part of an exterior lamp assembly. Nor does the Examiner direct us to evidence in Appellants' Specification or elsewhere in the intrinsic or extrinsic record that would support a construction of "exterior lamp assembly" that is broad enough to encompass either front surface 172 or rear surface 174 in Austin's Figures 20-23.

Accordingly, in the absence of a prima facie case of anticipation of independent claims 1, 9 and 17, and of claims 2, 4-8, and 18-20 dependent thereon, we reverse the rejection of these claims under 35 U.S.C. § 102(e) over Austin. Furthermore, because the Examiner's rejection of claim 3 is based on the same factual findings regarding Austin, Ans. 7, we reverse the rejection of claim 3 under 35 U.S.C. § 103(a) over Austin for the same reasons.

The decision of the Primary Examiner is reversed.

REVERSED

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