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138325	7590	12/01/2016	EXAMINER	
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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* HARALD JOSEF GÜNTHER RADERMACHER

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Appeal 2015-005754  
Application 13/806,289  
Technology Center 2800

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Before CATHERINE Q. TIMM, JEFFREY W. ABRAHAM, and  
MONTÉ T. SQUIRE, *Administrative Patent Judges*.

SQUIRE, *Administrative Patent Judge*.

DECISION ON APPEAL<sup>1</sup>

Appellant<sup>2</sup> appeals the Examiner's final rejection of claims 1–15 and  
18. 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

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<sup>1</sup> In this decision, we refer to the Final Office Action appealed from, mailed July 3, 2014 (“Final Act.”), the Examiner’s Advisory Action dated September 29, 2014 (“Adv. Act.”), the Appeal Brief dated December 3, 2014 (“App. Br.”), the Examiner’s Answer to the Appeal Brief dated March 13, 2015 (“Ans.”), and the Reply Brief dated May 13, 2015 (“Reply Br.”).

<sup>2</sup> Appellant identifies Koninklijke Philips N.V. as the real party in interest. App. Br. 1.

*The Claimed Invention*

Appellant's disclosure relates to a lighting device for producing light in a first state and in a second state wherein the first state is a low intensity state (i.e., a dimming state) and the second state is a higher intensity state (i.e., another dimming state or a non-dimming state). Spec. 1; Abstract. Claim 1 is representative of the claims on appeal and is reproduced below from the Claims Appendix to the Appeal Brief (App. Br. 12) (key disputed claim limitation in italics):

1. A lighting device for, in a first state, producing ultimate light having a first intensity and for, in a second state, producing ultimate light having a second intensity higher than the first intensity, said ultimate light comprising first light having a first color temperature and second light having a second color temperature higher than the first color temperature, the lighting device comprising
  - a first circuit for producing the first light, the first circuit comprising at least one first light emitting diode,
  - a second circuit for producing the second light, the second circuit comprising at least one second light emitting diode,
  - a third circuit for, in the first state, reaching a first temperature and for, in the second state, reaching a second temperature higher than the first temperature, and
  - a fourth circuit thermally coupled to the third circuit, the fourth circuit comprising a temperature-dependent circuit for adapting a ratio of a first power supplied to the first circuit divided by a second power supplied to the second circuit such that the ultimate light of the second intensity has a second ultimate color temperature different from a first ultimate color temperature of the ultimate light of the first intensity.*

*The References*

The Examiner relies on the following references as evidence in rejecting the claims on appeal:

York et al., US 2010/0134016 A1 June 3, 2010  
(hereinafter “York”)

van de Ven et al., US 2011/0068701 A1 Mar. 24, 2011  
(hereinafter “van de Ven”)

*The Rejections*

On appeal, the Examiner maintains the following rejections:<sup>3</sup>

1. Claims 1–9 and 13–15 stand rejected under pre-AIA 35 U.S.C. § 102(e) as being anticipated by van de Ven. Final Act. 5.
2. Claims 10–12 and 18 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over van de Ven in view of York. Final Act. 13.<sup>4</sup>

OPINION

Rejection 1

The Examiner determines that the van de Ven reference discloses all of the limitations of claim 1 and rejects claim 1 as being anticipated by the reference under § 102(e). Final Act. 5, 6. In particular, the Examiner finds

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<sup>3</sup> The Examiner has withdrawn the rejection of claim 10 under 35 U.S.C. § 112(a) or pre-AIA 35 U.S.C. § 112, first paragraph for lack of written description. Adv. Act. 1, 2.

<sup>4</sup> The Examiner’s second statement of rejection (“Rejection 2”) has been corrected to reflect that claims 16, 17, 19, and 20 have been canceled. App. Br. 2.

that van de Ven discloses a “third circuit (Figure 22 RLED)” and a “fourth circuit (FIGURE 22 circuit 924 . . .)” and that the fourth circuit is “thermally coupled to the third circuit,” as claimed. *Id.* at 5 (citing van de Ven, Fig. 22, circuit 924, RLED, Fig. 23, ¶¶ 58, 104). The Examiner contends that circuit 924 is “indirectly thermally coupled” to the resistor RLED (Final Act. 5) because the circuits are “wire connected . . . which mean[s] they must also be thermally coupled” (Ans. 4).

Appellant argues that the Examiner’s rejection should be reversed because van de Ven does not disclose claim 1’s “a fourth circuit thermally coupled to the third circuit” limitation. App. Br. 5. In particular, Appellant argues that “van de Ven does not disclose that circuit 924 . . . is thermally coupled to the resistor RLED.” *Id.*

We agree with Appellant’s argument. To serve as an anticipatory reference, “the reference must disclose each and every element of the claimed invention, whether it does so explicitly or inherently.” *In re Gleave*, 560 F.3d 1331, 1334 (Fed. Cir. 2009). Based on the record before us, we are not persuaded that the Examiner has established by a preponderance of the evidence that van de Ven discloses “a fourth circuit thermally coupled to the third circuit,” as required by claim 1.

The Examiner does not identify or direct us to sufficient evidence that van de Ven discloses this limitation. As Appellant correctly points out (App. Br. 5), van de Ven’s Figures 22 and 23 do not show or suggest any thermal coupling—indirectly or otherwise—between circuit 924 and resistor RLED and, notably, Figure 23 does not show the resistor RLED at all. Moreover, none of the passages of van de Ven that the Examiner cites as support for disclosure of this limitation teach, suggest, or even mention that

circuit 924 is thermally coupled to resistor RLED. *See* Final Act. 5 (citing van de Ven ¶¶ 58, 104); *see also* van de Ven ¶ 58 (disclosing a different embodiment that does not include circuit 924 or resistor RLED), ¶ 104 (disclosing a different embodiment that does not include resistor RLED).

The Examiner’s assertion that “[i]t is practically impossible that . . . two circuits are electrically connected (by a wire) but [are] not thermally coupled” (Ans. 4) is conclusory and speculative, and, without more, insufficient to sustain the Examiner’s findings in this regard. *Cf. In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) (holding “rejections . . . cannot be sustained by mere conclusory statements”).

We, therefore, cannot sustain the Examiner’s finding that van de Ven teaches all of claim 1’s limitations and conclusion that the reference anticipates claim 1.

Accordingly, we reverse the Examiner’s rejection of claim 1 under pre-AIA 35 U.S.C. § 102(e) as being anticipated by van de Ven. Because claims 2–9, 13, and 14 each depend from claim 1 and claim 15 includes the same “fourth circuit thermally coupled to the third circuit” limitation as claim 1, we also reverse the rejections of these claims.

### Rejection 2

Because the Examiner’s § 103 rejection is based primarily upon the van de Ven reference and rests on the same deficiency in the reference’s disclosure discussed above, and because we are not persuaded that the Examiner has provided an adequate technical explanation or identified sufficient evidence explaining why one of ordinary skill in the art at the time of the invention would have had reason to modify van de Ven’s lighting apparatus to arrive at the claimed invention or otherwise cure the deficiency,

we cannot sustain the Examiner's findings and conclusion that claims 10–12 and 18 would have been obvious over the combination of van de Ven and York. *See In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992) (holding that the examiner bears the initial burden of establishing a prima facie case of obviousness). Accordingly, we reverse the Examiner's Rejection 2.

DECISION

The Examiner's rejections of claims 1–15 and 18 are reversed.

It is ordered that the Examiner's decision is reversed.

REVERSED