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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
95/000,680	09/13/2012	6465961	P8450US00	7901
30671	7590	12/01/2016	EXAMINER	
DITTHAVONG & STEINER, P.C.			GAGLIARDI, ALBERT J	
Keth Ditthavong			ART UNIT	
44 Canal Center Plaza			PAPER NUMBER	
Suite 322			3992	
Alexandria, VA 22314			MAIL DATE	
			DELIVERY MODE	
			12/01/2016	
			PAPER	

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
95/002,324	09/14/2012	6,465,961 B1	P8450US00	7846
30671	7590	12/01/2016	EXAMINER	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GE LIGHTING INC. and OSRAM SYLVANIA INC.,
Requesters and Respondents

v.

EPISTAR CORPORATION,
Patent Owner and Appellant

Appeal 2016-008254
Reexamination Control Nos. 95/000,680 and 95/002,324
Patent 6,465,961 B1
Technology Center 3900

Before JOHN A. JEFFERY, DENISE M. POTHIER, and
JENNIFER L. McKEOWN, *Administrative Patent Judges*.

McKEOWN, *Administrative Patent Judge*.

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Control Nos. 95/000,680 and 95/002,324
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DECISION ON APPEAL

Epistar Corporation (“Patent Owner”) appeals from the decision in the Examiner’s Right of Appeal Notice rejecting claims 104-118¹ of US Patent No. 6,465,961 (“the ’961 patent”). App. Br. 1.² GE Lighting, Inc. (“GE Lighting”) and OSRAM Sylvania, Inc. (“OSRAM”) (collectively, “Requesters”) each respond to Patent Owner’s appeal. *See generally* GE Resp. Br.; OS Resp. Br.

I. STATEMENT OF CASE

Requesters requested *inter partes* reexamination of the ’961 patent issued to Densen Cao on October 15, 2002.

We have been informed that the ’961 patent was the subject of a district court proceeding, namely *Cao Group v. GE Lighting et al.*, U.S. District Court, District of Utah, Civil Action No. 2:11-cv-00426. *See* App. Br. 3. We note that U.S. Patent No. 6,746,885 was also the subject of the district court proceeding. On August 31, 2016, the Board issued a decision in Appeal 2016-006246 (merged reexamination Control Nos. 95/000,679 and 95/002,245), where we affirmed the Examiner’s rejection of claims 9–13, 15–27, 30–32, 35, 36, and 38–43 of U.S. Patent No.

¹ Claims 1–20 are canceled, and Claims 21–103 are not subject to reexamination. *See* App. Br., Claims App’x.

² In this opinion, we refer to (1) the Right of Appeal Notice mailed September 8, 2015 (“RAN”); (2) Patent Owner’s Appeal Brief filed December 4, 2015 (“App. Br.”); (4) Requester GE Lighting’s Respondent Brief filed January 20, 2016 (“GE Resp. Br.”); (3) Requester OSRAM’s Respondent Brief filed February 8, 2016 (“OS Resp. Br.”); and (5) Patent Owner’s Rebuttal Brief filed March 29, 2016 (“Reb. Br.”).

6,746,885.

We have jurisdiction under 35 U.S.C. §§ 134 and 315 (pre-AIA).

We AFFIRM.

II. THE '961 PATENT

The '961 patent generally relates to a method for making a semiconductor light source for illuminating a physical space. '961 patent, Abstract. As shown below in reproduced Figure 1, a single or an array of semiconductor devices 106 capable of producing light may be mounted on a heat sink 104 including planar panels or compartments 104a–i. *Id.* at col. 3, ll. 22–31.

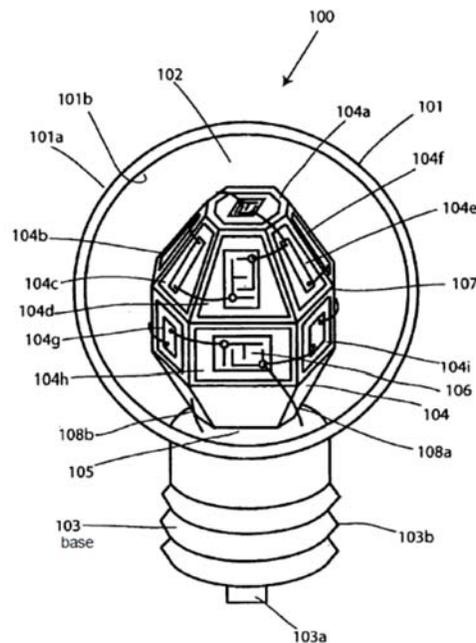


Fig. 1

Figure 1 of the '961 Patent Depicting an Exemplary Embodiment of the Semiconductor Light Source of the Invention

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As also shown in Figure 1, “[t]he semiconductor devices 106 are electrically connected to each other via electrical connections 107. Lead wires 108a and 108b are used to provide the semiconductor devices 106 with electrical power.” ’961 patent, col. 3, ll. 22–31.

Claim 104 is illustrative and read as follows:

104. (New) The semiconductor light source as recited in claim 1 wherein:
the semiconductor light source is configured to illuminate with white light a space occupiable by humans,
the semiconductor chip is a surface mount light emitting diode (LED) chip,
the semiconductor light source further comprises additional surface mount LED chips each mounted on one of the panels,
the LED chip and said additional LED chips are electrically connected to each other via lead wires configured to provide said LED chip and said additional LED chips with electrical power, and
at least one of said lead wires is positioned external to said heat sink and runs directly between the LED chip and one of said additional LED chips.

App. Br., Claims App’x.

III. REJECTIONS

A. *Evidence Relied Upon*

The Examiner relies on the following as evidence of unpatentability:

Mygatt	US D 38,005	May 8, 1906
Thau et al.	US 3,200,280	Aug. 10, 1965
Wickenden	US 4,182,025	Jan. 8, 1980
Ray	US 4,211,955	Jul. 8, 1980
Yamane et al.	US 4,845,405	Jul. 4, 1989
Karpinski	US 5,040,187	Aug. 13, 1991

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Monto	US 5,363,009	Nov. 8, 1994
Abe	US 5,535,230	Jul. 9, 1996
Freyman	US 5,640,407	Jun. 17, 1997
Ruskouski	US 5,655,830	Aug. 12, 1997
Martin et al.	US 5,728,090	Mar. 17, 1998
Deese	US 5,806,965	Sep. 15, 1998
Kanbar	US 5,850,126	Dec. 15, 1998
Haitz et al.	US 5,917,202	Jun. 29, 1999
Allen	WO 99/57945 A1	Nov. 11, 1999
Begemann	WO 00/17569 A1	Mar. 30, 2000
Sugiura et al.	US 6,015,979	Jan. 18, 2000
Matsubara et al.	EP 0 977 278 A3	Feb. 2, 2000
Alvarez	US 6,252,350 B1	Jun. 26, 2001
Waitl et al.	US 2001/0045573 A1	Nov. 29, 2001
Becker et al.	US 2002/0079505 A1	Jun. 27, 2002
Abdelhafez et al.	US 2002/0122309 A1	Sep. 5, 2002
Wojnarowski et al.	US 6,635,987 B1	Oct. 21, 2003
Koay et al.	US 6,806,583 B2	Oct. 19, 2004

Georg Bogner et al., *White LED, Light-Emitting Diodes: Research, Manufacturing, and Applications III*, Proceedings of SPIE, Vol. 3621, pp. 143–50, Jan. 1999 (“Bogner”).

T. Mukai et al., *InGaN-based uv/blue/green/amber/red LEDs, Light-Emitting Diodes: Research, Manufacturing, and Applications III*, Proceedings of SPIE, Vol. 3621, pp. 2–13, Jan. 1999 (“Mukai”).

Bill Schweber, *LEDs Move from Indication to Illumination*, EDN, 2 Aug. 2001, pp. 75–82 (“Schweber”).

Declaration of Dr. Robert F. Karlicek, Jr. filed Nov. 5, 2013 (“Karlicek Decl.”).

B. The Adopted Rejections

The Examiner rejects claims 110–116 under 35 U.S.C. § 112, second paragraph (pre-AIA) as being indefinite. RAN 10, 16.

The Examiner maintains at least the following proposed prior art rejections,³ for which Patent Owner appeals:

References	Basis	Claims	RAN
Begemann, Schweber (or Waitl, Abe, and Wojnarowki) and Becker (or Wickenden)	§ 103(a)	104–116	10–11, 19–24
Begemann, Schweber (or Waitl, Abe, and Wojnarowki), Becker (or Wickenden), and Watabe (or Wierer and Haitz)	§ 103(a)	117	11, 24–25
Begemann, Schweber (or Waitl, Abe, and Wojnarowki), Becker (or Wickenden), and Duldner (or Birdseye)	§ 103(a)	118	11, 25–26
Begemann, Schweber, Chen, and Limpkin	§ 103(a)	104–114, 116	11, 26
Begemann, Schweber, Chen, Limpkin, and Yang	§ 103(a)	115	12, 28
Begemann, Schweber, Chen, Limpkin, and Watabe	§ 103(a)	117	12, 28
Begemann, Schweber, Chen, Limpkin, Duldner, and Birdeye	§ 103(a)	118	12, 28

IV. ANALYSIS

We review the appealed rejections for error based upon the issues identified by Patent Owner, and in light of the arguments and evidence

³ There are additional rejections of the pending claims not listed. *See generally* RAN. As discussed below, we do not reach the merits of these rejections because our decision with respect to the listed rejections is dispositive regarding patentability of all appealed claims.

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produced thereon. *Cf. Ex parte Frye*, 94 USPQ 2d 1072, 1075 (BPAI 2010) (precedential) (citing *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992)).

“Any arguments or authorities not included in the brief permitted under this section or [37 C.F.R.] §§ 41.68 and 41.71 will be refused consideration by the Board, unless good cause is shown.” 37 C.F.R. § 41.67(c)(1)(vii).

A. The Rejection based on 35 U.S.C. § 112, second paragraph

Based on the record before us, we are persuaded that the Examiner erred in rejecting claims 110–116 as indefinite under 35 U.S.C. § 112, second paragraph. The Examiner, in particular, finds that

claim [110] recites a limitation wherein said enclosure is “positioned above” said heat sink. This limitation is unclear because the term “above” is a relative term which renders the claim indefinite. The term “above” is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is noted that whether or not the enclosure is above the heat sink depends of the physical orientation of the light source, which is not defined by the claims. That is to say, the relative positions of the enclosure and the heat sink would depend on orientation of the electrical socket in which the light source is installed.

RAN 16.

We disagree. While neither the claims nor specification provide an express definition of the recited term “above,” there is a well-established, plain and ordinary meaning that would be understood by one of ordinary skill in the art. For example, “above” may be defined as “in, at, or to a

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higher place; overhead; up.”⁴ While “above” may broadly define the placement of the enclosure with respect to the heat sink, this does not render the claim indefinite. *See, e.g., In re Miller*, 441 F.2d 689, 693 (CCPA 1971) (noting that the breadth of a claim is not to be equated with indefiniteness). Claim 10 merely requires some portion of the enclosure to be positioned above the heat sink, as shown, for example, in at least Figures 1 and 2 of the ’961 patent. Moreover, the claims are directed to the device of “a semiconductor light source,” not a semiconductor light source installed within an electrical socket.

Accordingly, we do not sustain the Examiner’s rejection of claims 110–116 under 35 U.S.C. § 112, second paragraph as indefinite.

B. The Obviousness Rejection Based on Begemann, Schweber (or Waitl, Abe, and Wojnarowski) and Becker (or Wickenden)

Claims 104–116

Based on the record before us, we are not persuaded that the Examiner erred in rejecting claims 104–116 under 35 U.S.C. § 103(a) as unpatentable over the combination of Begemann, Schweber (or Waitl, Abe, and Wojnarowski) and Becker (or Wickenden).

Patent Owner asserts that “neither Begemann nor Schweber discloses that at least one of the lead wires is positioned external to the heat sink and runs directly between the [light emitting diode] LED chip and one of the additional LED chips, as required in claim 104.” App. Br. 12. In particular,

⁴ Webster’s New World College Dictionary (2010), *available at* <http://www.yourdictionary.com/above> (last visited Nov. 28, 2016).

Patent Owner contends that “[t]here is no hint or suggestion in Begemann to run the connection points 14 external to a heat sink upon which the LEDs are mounted.” App. Br. 13. According to Patent Owner, the Examiner relies on impermissible hindsight, using “claim 104 as a blueprint for the purpose of reassembling these features from the applied prior art so as to arrive at the claimed invention.” App. Br. 13.

We find this argument unpersuasive. Begemann is directed to a LED lamp comprising a number of LEDs. Begemann, Abstract. Begemann’s Figure 1, reproduced below, depicts an exemplary LED lamp including a substrate with a regular polyhedron of at least four planes, each comprising LEDs.

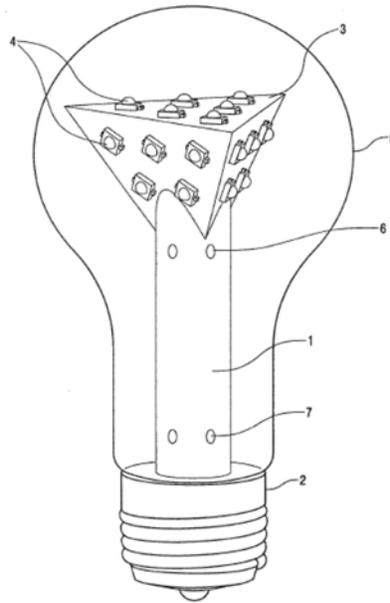


FIG. 1

**Figure 1 of Begemann Depicting an Exemplary Embodiment of
Begemann’s LED lamp**

Begemann further explains that the LEDs include a multi-chip printed circuit board (MC-PCB) 12 and electrical connections 14, shown, for example, in Figure 3A below.

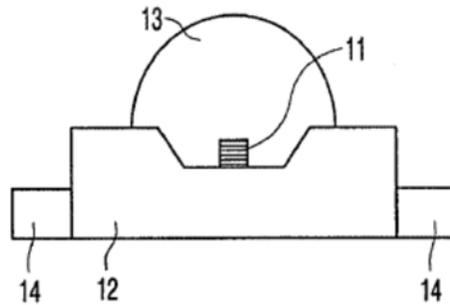


Figure 3A of Begemann Depicting an Exemplary LED of Begemann Including Electrical Connections

As the Examiner explains, Begemann’s LED chip and at least one additional LED chip are electrically connected to each other to provide electrical power to a LED chip and additional LED chip. RAN 20; *see also* Schweber, at 76, 78. The Examiner acknowledges, as Patent Owner points out, that “[t]he combination of Begemann and Schweber does not specifically disclose that that at least one of the lead wires is positioned external to said heat sink and runs directly between LED chip and said additional LED chips.” However, the Examiner determines

With regard to a lead wire being positioned external to the heat sink it is noted that the LED chips as disclosed by Begemann each include electrical connection points (14). As to the specific use of wire leads positioned external to the heat sink, those of ordinary skill in the art generally appreciate that the interconnection between the chips and/or other components is typically made by means of either wire traces formed on the PCB, or by means of wire bonding leads. In the case of wire bonds, the connections may be external (i.e., on the same side as the LED chips) or internal (i.e., on the opposite side by means of

through-holes. Absent some degree of criticality, the choice of using external bonding wires would have been an obvious and predictable design choice.

RAN 21; *see also* Karlicek ¶¶ 41–51. In other words, the Examiner explains it would have been well known to an ordinarily skilled artisan at the time of the invention that the LED chips would need to be electrically connected and that these needed connections would be known to be either external or internal to the heat sink. At the time of the invention, then, there had been a finite number of identified, predictable potential solutions (either external or internal connections) to the recognized need or problem of electrically connecting the LED chips and, as such, using external direct connections would have been obvious to try. *See KSR Int'l. Co. v. Teleflex, Inc.*, 550 U.S. 398, 421 (2007).

The Examiner also cites prior art references to demonstrate that external, direct electrical connections between LED chips were well known at the time of the invention, and a skilled artisan would have had a reasonable expectation of success with such connections. *See, e.g.*, RAN 21. For example, Wickenden's LEDs, as shown in Figure 1 reproduced below, use stitch bonds 7, which are external, direct connections.

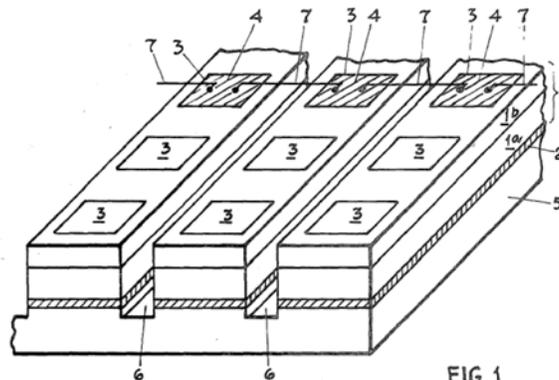


FIG.1.

**Figure 1 of Wickenden Depicting Direct, External Connections between
Top Electrodes**

See also Karlicek Decl. ¶ 47 (“Wickenden shows an array of LED chips directly connected from anode to cathode via stitch bonding 7. (Wickenden. col. 3, ll. 14–16 and FIG. 1[.]) Stitch bonding was a well-known method of making wire connections in semiconductor electronic devices as of the filing of the ’961 patent.”); Karlicek Decl. ¶ 45 (citing Becker ¶ 25 and Fig. 1) (explaining that “Becker discloses an array of LEDs ‘connected in series by means of wire bonds through gold wires 10.’”).

GE also explains that

there can be only a couple possible ways to connect the electrical connections 14 of Begemann’s LEDs 4 to power the LEDs. One might connect Begemann’s LEDs 4 to one another within the heat sink 3, The alternative would be to connect Begemann’s LEDs 4 to one another externally to the heat sink 3, The Patent Owner does not suggest that they would be connected any other way. Thus, electrically connecting Begemann’s LEDs 4 to each other to provide the LEDs 4 with electrical power using lead wires that are external to his heat sink 3, as claimed, would likely be the preferred design choice of the finite number of predictable solutions.

GE Resp. Br. 7–9; *see also* OS Resp. Br. 8–11. As such, we find Patent Owner’s argument that the Examiner uses the ’961 patent as a blueprint for the cited modification of Begemann to include direct, external electrical connections unpersuasive. As discussed above, the Examiner provides ample evidence, such as prior art references demonstrating successful implementation of direct, external electrical connections in similar devices at the time of the invention, along with sufficient reasoning with some rational

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underpinning to support the legal conclusion of obviousness. *See, e.g.*, RAN 21, OSRAM’s Third Party Comments After Patent Owner Response, filed June 3, 2014, at 9, 15–17 (incorporated by reference at RAN 29).

Patent Owner, for the first time in the Rebuttal Brief, distinguishes a Begemann’s alleged surface-mounted-device (SMD) from a wire bonding type device and contends that

Accordingly, for SMD type LEDs, one of ordinary skill in the art would not use wire as alleged on the Respondents’ Briefs. In this respect, Respondents clearly rest on improper generalizations and conspicuously eschew how one having ordinary skill in the art would have considered SMD type LEDs vis-a-vis the conventional LEDs using wire bonding (wire-type LED).

Reb. Br. 3. This argument was raised for the first time in the Rebuttal Brief and is, therefore, waived as untimely. *Cf. Ex parte Borden*, 93 USPQ 2d 1473, 1474 (BPAI 2010) (informative) (“[The reply brief [is not] an opportunity to make arguments that could have been made in the principal brief on appeal to rebut the Examiner’s rejections, but were not.”); 37 C.F.R. 41.41(b)(2). Moreover, for this newly proposed argument, Patent Owner’s conclusory assertions are unsupported by persuasive evidence or explanation. For example, Patent Owner presents only attorney argument, without persuasive evidence or explanation, that a person of ordinary skill in the art would limit use of wire connections only to “wire-type LEDs” and only use solder connections for SMD type LEDs. Reb. Br. 3–4.

Moreover, as discussed above, Begemann, which Patent Owner identifies as a *surface-mounted-device* (Reb. Br. 3), depicts two *external* electrical connections 14 for each LED chip. *See* Begemann Figs. 3a–d; *see also* RAN 21 (discussing wire traces formed on the PCB as a use for wire

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leads positioned external to the heat sink to interconnect between chips or, in other words, wire traces formed on the PCB are also electrical connections external to the heat sink). For the reasons discussed above, we agree with the Examiner that it would have been obvious at the time of the invention to modify Begemann's LED lamp to implement direct, external electrical connections between an LED chip and additional LED chips, as taught by Chen or Limpkin.

Therefore, for the reasons discussed above and identified by the Examiner, we sustain the Examiner's rejection of claims 104–116 as unpatentable over the cited combination of prior art.

C. The Obviousness Rejection Based on Begemann, Schweber, Chen, and Limpkin

Claims 104–114 and 116

Based on the record before us, we are not persuaded that the Examiner erred in rejecting claims 104–114 and 116 under 35 U.S.C. § 103(a) as unpatentable over the Begemann, Schweber, Chen, and Limpkin.

Patent Owner presents similar arguments as those discussed above with respect to the rejection based on Begemann, Schweber (or Waitl, Abe, and Wojnarowski) and Becker (or Wickenden). Namely, Patent Owner contends that

absent the '961 patent as a template, one of ordinary skill in the art would not have modified Begemann's device [in view of the teachings of Chen and Limpkin] as alleged in the reply. Patent Owner respectfully submits that Begemann, at FIGs. 3A-3D, provides electrical connection points 14 between LEDs that do

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not run external to a heat sink upon which the LEDs are mounted, as required in claim 104. There is no hint or suggestion in Begemann to run the connection points 14 external to a heat sink upon which the LEDs are mounted.

App. Br. 15.

For reasons similar to those discussed above, we find this argument unpersuasive. For example, the Examiner finds that the use of direct, external connections between LED chips was well known at the time of the invention, and that each of Chen and Limpkin teach successful implementation of these types of connections in similar devices. *See* RAN 26 (incorporating by reference pages 8–14 of GE’s Third Party Comments After Patent Owner Response (Control No. 95/000, 680), filed May 23, 2014, (“GE Comments”)); *see also* GE Comments pp. 10–11 (citing Limpkin, Figs. 5, 6, and 8; Chen, Fig. 12). The Examiner further explains that that Begemann, Schweber, Chen, and Limpkin are all

in the field of LEDs, each with slightly different characteristics. Such combinations involve known methods, needing only routine skill in the art, yielding predictable results. In many cases, this is simply substituting one know [sic] element for another. . . . In all cases, there are only a finite number of identified, predictable solutions, and all have more than a reasonable expectation of success.

GE Comments 9 (incorporated by reference at RAN 26).

As such, we are not persuaded that the Examiner used improper hindsight relying on the ’961 patent as a blueprint for the cited combination. Rather, it would have been obvious at the time of the invention to merely substitute Begemann’s method of electrically connecting LED chips with direct, external electrical connections, as taught by Chen or Limpkin, to obtain predictable results.

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Therefore, for the reasons discussed above and identified by the Examiner, we sustain the Examiner's rejection of claim 104–114 and 116 as unpatentable over the combination of Begemann, Schweber, Chen, and Limpkin.

D. The Obviousness Rejection Based on Begemann, Schweber, Chen, Limpkin, and Yang

Claim 115

Patent Owner presents no separate argument with respect to this rejection of claim 115, but instead relies on the arguments presented with respect to claim 104. *See, e.g.*, App. Br. 19. For the reasons discussed above, we find these arguments unpersuasive. Therefore, for the reasons discussed above and identified by the Examiner, we sustain the Examiner's rejection of claim 115 as unpatentable over the combination of Begemann, Schweber, Chen, Limpkin, and Yang.

E. The Obviousness Rejection Based on Begemann, Schweber (or Waitl, Abe, Wojnarowski), Becker (or Wickenden) and Watabe (or Wierer and Haitz)

Claim 117

Based on the record before us, we are not persuaded that the Examiner erred in rejecting claim 117 under 35 U.S.C. § 103(a) as being unpatentable

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over the cited combination of Begemann, Schweber (or Waitl, Abe, Wojnarowski), Becker (or Wickenden) and Watabe (or Wierer and Haitz).

Patent Owner contends that the Examiner “fails to provide the requisite for combining Begemann with Wierer and Haitz.” App. Br. 14. Patent Owner, however, fails to identify error in the Examiner’s reasoning. The Examiner, for example, finds that Wierer and Haitz each teach the recited dimensional limitations and determines that “those of ordinary skill in the art appreciate that it is well known in the art to utilize large area LED chips to allow for higher luminous flux.” RAN 24.

Notably, Begemann teaches that “[d]uring operation of the lamp, [Begemann’s] LEDs generate a luminous flux of 5 lm *or more*.” Begemann p. 4, ll. 21–22 (emphasis added). Begemann, thus, expressly contemplates increased luminous flux. As GE further explains,

Here, the Examiner's obviousness rejection, and rationale, is well grounded in Begemann himself who teaches, and indeed claims, heat sink panels that “are each provided with at least one LED which ... has a luminous flux of at least 5 lm”. See, e.g., Begemann claim 1, at pg. 7. In setting a minimum flux, Begemann recognizes the need and motivation for higher luminous flux, as noted by the Examiner. Begemann also teaches multiple light point LEDs, which would also increase both luminous flux and size. See, e.g., Begemann at FIG. 3B and 3C. Thus, Begemann supports the Examiner’s stated rationale to use more and/or larger area LED chips to provide higher luminous flux.

GE Resp. Br. 10. As such, given the teachings of Begemann, along with the express teachings of the dimensional limitations of Wierer and Haitz, we are not persuaded of error in the Examiner’s determination. *See also*

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OS Resp. Br. 11 (citing MPEP § 2144.04 (IV) and noting that “limitations relating to [size are] not sufficient to patentably distinguish the prior art.”).

Accordingly, for the reasons discussed above and identified by the Examiner, we sustain the Examiner’s rejection of claim 117 as unpatentable over the combination of Begemann, Schweber (or Waitl, Abe, Wojnarowski), Becker (or Wickenden) and Watabe (or Wierer and Haitz).

F. The Obviousness Rejection Based on Begemann, Schweber, Chen, Limpkin, and Watabe

Claim 117

Patent Owner presents no separate argument with respect to this rejection of claim 117, but instead relies on the arguments presented with respect to claim 104. *See, e.g.*, App. Br. 19. For the reasons discussed above, we find these arguments unpersuasive. Therefore, for the reasons discussed above and identified by the Examiner, we sustain the Examiner’s rejection of claim 117 as unpatentable over the combination of Begemann, Schweber, Chen, Limpkin, and Watabe.

G. The Remaining Obviousness Rejections Based on Begemann, Schweber (or Waitl, Abe, and Wojnarowski), Becker (or Wickenden) and Duldner (or Birdeye)

Patent Owner presents no separate argument with respect to this rejection of claim 118, but instead relies on the arguments presented with respect to claim 104. *See, e.g.*, App. Br. 14. For the reasons discussed above, we find these arguments unpersuasive. Therefore, for the reasons

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discussed above and identified by the Examiner, we sustain the Examiner's rejection of claim 118 as unpatentable over the combination of Begemann, Schweber (or Waitl, Abe, and Wojnarowski), Becker (or Wickenden) and Duldner (or Birdeye).

H. The Obviousness Rejection Based on Begemann, Schweber, Chen, Limpkin, Duldner, and Birdseye

Claim 118

Patent Owner presents no separate argument with respect to this rejection of claim 118, but instead relies on the arguments presented with respect to claim 104. *See, e.g.*, App. Br. 19–20. For the reasons discussed above, we find these arguments unpersuasive. Therefore, for the reasons discussed above and identified by the Examiner, we sustain the Examiner's rejection of claim 118 as unpatentable over the combination of Begemann, Schweber, Chen, Limpkin, Duldner, and Birdseye.

I. The Remaining Rejections

Because our decision is dispositive regarding patentability of all appealed claims based on the foregoing combinations of prior art references, we need not reach the merits of the Examiner's decision to reject also the claims based on the additionally cited combinations of prior art. *See In re Gleave*, 560 F.3d 1331, 1338 (Fed. Cir. 2009) (not reaching other rejections after upholding an anticipation rejection); *see also Beloit Corp. v. Valmet Oy*, 742 F.2d 1421, 1423 (Fed. Cir. 1984) (approving ITC's determination

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based on a single dispositive issue, and not reaching other issues not decided by the lower tribunal).

V. CONCLUSION

We affirm the Examiner's decision to reject claims 104–118.

VI. TIME PERIOD FOR RESPONSE

Requests for extensions of time in this *inter partes* reexamination proceeding are governed by 37 C.F.R. § 1.956. *See* 37 C.F.R. § 41.79.

In the event neither party files a request for rehearing within the time provided in 37 C.F.R. § 41.79, and this decision becomes final and appealable under 37 C.F.R. § 41.81, a party seeking judicial review must timely serve notice on the Director of the United States Patent and Trademark Office. *See* 37 C.F.R. §§ 90.1 and 1.983.

AFFIRMED

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