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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/034,941	09/24/2013	Philip Michael GONZALES	83382239; 67186-033 PUS1	5620
46442	7590	02/09/2018	EXAMINER	
CARLSON, GASKEY & OLDS, P.C./Ford 400 W. MAPLE RD. SUITE 350 BIRMINGHAM, MI 48009			MUSLEH, MOHAMAD A	
			ART UNIT	PAPER NUMBER
			2837	
			NOTIFICATION DATE	DELIVERY MODE
			02/09/2018	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte PHILIP MICHAEL GONZALES and
RAY C. SICIAK

Appeal 2017-005571
Application 14/034,941¹
Technology Center 2800

Before TERRY J. OWENS, CHRISTOPHER L. OGDEN, and
SHELDON M. MCGEE, *Administrative Patent Judges*.

MCGEE, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134, Appellant appeals from the Examiner's rejections adverse to the patentability of claims 1–13, 15, and 21–25.

We have jurisdiction under 35 U.S.C. § 6.

We affirm-in-part.

¹ Appellant is the Applicant, Ford Global Technologies, LLC, which is also identified as the real party in interest. App. Br. 1.

SUBJECT MATTER

The appealed subject matter is related to an integrated contactor and service disconnect assembly used to interrupt high voltage current in electric vehicles. Spec. ¶¶ 1–2.

Claim 1 is illustrative of the subject matter on appeal:

1. An integrated contactor/service disconnect assembly, comprising:
a stationary contact;
a movable contact selectively movable relative to said stationary contact; and
a service disconnect unit configured to block said movable contact from contacting said stationary contact.

App. Br. 9.

REFERENCES

The Examiner relies on the following references as evidence of unpatentability:

Faffart	US 5,099,385	March 24, 1992
Hauke ² (as translated)	WO 94/28567	December 8, 1994
Kodama	US 2013/0335174 A1	December 19, 2013

² The Examiner refers to this reference as “Reinhard.”

REJECTIONS

- I. Claims 1–10 are rejected under 35 U.S.C. § 102(a)(1) as anticipated by Faffart (Final Act. 2–3);
- II. Claims 11–13, 15, 24, and 25 are rejected under 35 U.S.C. § 102(a)(1) as anticipated by Hauke (Final Act. 4); and
- III. Claims 21–23 are rejected under 35 U.S.C. § 103 as unpatentable over Hauke in view of Kodama (Final Act. 5–6).

OPINION

We address the claims separately to the extent they are so argued by Appellant. 37 C.F.R. § 41.37(c)(1)(iv).

Rejection I

Claim 1

The Examiner finds that Faffart anticipates the recited assembly. Final Act. 2. Appellant argues Faffart fails to disclose a “structure that blocks contact between the fixed [and movable] contacts.” App. Br. 3.

This argument is not persuasive, however, because the claim does not require a structure to physically block the movable and stationary contacts from touching. Rather, the claim recites that the service disconnect unit is “configured to block said movable contact from contacting said stationary contact.” *In re Self*, 671 F.2d 1344, 1348 (CCPA 1982) (“[A]ppellant’s arguments fail from the outset because . . . they are not based on limitations appearing in the claims.”).

“[D]uring examination proceedings, claims are given their broadest reasonable interpretation consistent with the specification.” *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000). In this case, we agree with the Examiner

(Ans. 6) that the term “block” is not limited to require some physical structure. While the Specification discloses embodiments allowing for such physical structure to prevent the contacts from touching (e.g., Fig. 3, prong 84), the Specification is not limited to that embodiment. See Spec. ¶ 47 (explaining that the “exemplary configurations are not intended to limit the scope of this disclosure”), and *id.* ¶ 62 (“[t]he foregoing description shall be interpreted as illustrative and not in any limiting sense.”).

Here, the Examiner finds, and we agree, that Faffart’s mechanical locking device 41 is configured to block, i.e., prevent, the contacts from touching as required by claim 1. Final Act. 2. Faffart explains that the mechanical locking device 41 “act[s] on the armatures [] of the electromagnets . . . to guarantee that one of the two contact maker systems is open when the other is closed.” Faffart 3:41–44. Thus, the Examiner is correct (Ans. 6–7) that the recited limitation is satisfied by Faffart’s locking device 41 by ensuring that one of the contact maker systems is open.

Because Appellant has not identified error in the Examiner’s anticipation rejection of claim 1, we sustain it as well as the rejection of dependent claims 2–6 and 8–10 not separately argued. 37 C.F.R. § 41.37(c)(1)(iv).

Claim 7

Claim 7 ultimately depends from claim 1, and additionally requires a service button, and a prong extending from said button, wherein the prong is movable to a position between the stationary and movable contacts. App. Br. 9.

Appellant argues that “Faffart fails to teach any structure, let alone a prong, that is moved to a position between the” contacts. App. Br. 5. We agree with Appellant.

The Examiner maps Faffart’s control knob 132 to the recited service button, and shaft 131 to the recited prong. Final Act. 3. See Faffart, Fig. 3. The Examiner relies on the “dotted line between elements 6 and 7” of Fig. 1 to satisfy the prong’s movement between the contacts. *Id.* However, the Examiner has not shown, nor do we discern, how Faffart’s shaft 131 as illustrated in Figure 3 is movable to a position between the stationary (48, 49) and movable (55, 56) contacts. We emphasize that the dotted line between armatures 6 and 7 upon which the Examiner relies (Final Act. 3) appears in Figure 1, i.e., a general diagram of the contactor, and not Figure 3 which is the schematic sectional view showing shaft 131. Faffart 2:45–52.

We also observe that the Examiner changes the mapping in the Answer by referring to element 133 as the prong and an annotated portion “B” of Figure 3. Ans. 8. We agree with Appellant (Reply Br. 4) that this alternative disclosure of Faffart fails to evince the recited limitation because annotated portion “B” highlights element 57, not element 133.

Therefore, the anticipation rejection of claim 7 is reversed.

Rejection II

Independent claims 11 and 24 are rejected as anticipated by Hauke, and are separately argued by Appellant. Final Act. 4; App. Br. 5–6.

Claim 11

Regarding claim 11, Appellant argues that Hauke fails to teach the recited “energy storage device.” App. Br. 5–6. This argument fails to persuade us of reversible error because Appellant does not challenge the

Examiner's finding (Ans. 10) regarding Hauke's disclosure of a coil meeting the "energy storage device" limitation. *See* Reply Br. 4.

We furthermore disagree with Appellant's argument regarding the lack of integration between Hauke's contactor and the service disconnect unit. App. Br. 5. Rather, we share the Examiner's view (Ans. 10–11) that these elements are indeed integrated. Hauke expressly states that Figures 2a and 2b are detailed drawings of "the fast mechanical switch 20 shown in Fig[ure] 1." Hauke 2:18 (as translated). Contactor 21 and prong 23 (Figs. 2a, 2b) are each contained within switch 20 (Fig. 1), and are, thus, "integrated" according to the broadest reasonable interpretation of this term consistent with the Specification. Spec. ¶ 45. *In re Hyatt*, 211 F.3d at 1372.

We therefore sustain the anticipation rejection of claim 11, as well as dependent claims 12, 13 and 15 not separately argued.

Claim 24

Appellant challenges the Examiner's finding (Final Act. 4) that Hauke discloses the recited "service button." App. Br. 6; Reply Br. 4. We agree with Appellant.

The Examiner maps the service button to Hauke's aluminum disk 24, but neither the machine translation of Hauke nor the Examiner discuss the purpose for such disk. The Specification, however, is replete with references to the recited "service button" and its purpose. Spec. ¶¶ 9, 16, 20, 50–52, 56, and 57. For example, the Specification notes that the button 82 is actuated in a certain direction, e.g., by pressing, to move prong 84 to a position that is between the movable contact 66 and the stationary contact 64. Spec. ¶ 51, Fig. 3. Furthermore, button 82 may be pressed by a service

technician in an “attempt to position the prong 84 between the” contacts. Spec. ¶¶ 50, 56.

Hauke’s aluminum disk 24 appears to be contained within switch 20. Figs. 1, 2a, 2b; Hauke 2:18–21 (as translated, explaining how components 21, 22, 23, 24, and 25 are part of mechanical switch 20, and are shown in greater detail in Figures 2a and 2b.) On this record, it is not clear how internal component 24 of switch 20 may be “pressed” by a service technician, and thus function as a service button to move prong 23 between the contacts 21.

The Examiner’s attempt to shift the burden to Appellant to show why aluminum disk 24 cannot be the recited “service button” (Ans. 11) is legally impermissible, for it is the examiner who “bears the initial burden . . . of presenting a *prima facie* case of unpatentability.” *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

Therefore, we do not sustain the anticipation rejection of claim 24, or its dependent claim 25.

Rejection III

Appellant contests the Examiner’s obviousness rejection of claims 21–23 as improper because the Examiner fails to provide any support for the obviousness conclusion. App. Br. 7; Reply Br. 4–5.

We agree with Appellant. “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

Here, the Examiner provides no such reasoning. Final Act. 6. Furthermore, in the Answer, the Examiner fails to even respond to Appellant's arguments set forth in the Appeal Brief regarding the conclusory nature of the rejection.

Under these circumstances, we are constrained to reverse the obviousness rejection of claims 21–23.

DECISION / ORDER

The Examiner's final decision to reject claims 1–6, 8–13, and 15 is affirmed.

The Examiner's final decision to reject claims 7 and 21–25 is reversed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1).

AFFIRMED-IN-PART