



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
**United States Patent and Trademark Office**  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/660,275	03/17/2015	Oskar Myhre BROBERG	Q218451	3895
23373	7590	10/07/2019	EXAMINER	
SUGHRUE MION, PLLC 2000 PENNSYLVANIA AVENUE, N.W. SUITE 900 WASHINGTON, DC 20006			DABNEY, PHYLESHA LARVINIA	
			ART UNIT	PAPER NUMBER
			2655	
			NOTIFICATION DATE	DELIVERY MODE
			10/07/2019	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PPROCESSING@SUGHRUE.COM  
USPTO@sughrue.com  
sughrue@sughrue.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* OSKAR MYHRE BROBERG,  
JORGEN MEJNER OLSEN, and KENNIE FALK HAVN

---

Appeal 2018-002784  
Application 14/660,275  
Technology Center 2600

---

Before BRADLEY W. BAUMEISTER, SHARON FENICK, and  
DAVID J. CUTITTA II, *Administrative Patent Judges*.

CUTITTA, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant<sup>1</sup> appeals from the Examiner's decision to reject claims 1–10. We have jurisdiction under 35 U.S.C. § 6(b). Oral arguments were heard on September 9, 2019. A transcript of that hearing will be added to the record in due time.

We REVERSE.

---

<sup>1</sup> We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as WIDEX A/S. Appeal Br. 2.

## STATEMENT OF THE CASE

### *Introduction*

Appellant's invention is described as a hearing aid having a one-piece pre-stressed spring for contacting a battery. *See* Spec. 3:6–16.<sup>2</sup>

### *Illustrative Claim*

Independent claim 1 is illustrative of the claimed subject matter and is reproduced below with formatting modified for clarity and limitations at issue emphasized:

1. A hearing aid comprising:
  - a battery compartment prepared for receiving a battery and two contacts arranged to draw an electrical current from an inserted battery in order to power electrical parts of the hearing aid,
    - at least one of said contacts being loaded by a pre-stressed spring,
      - said pre-stressed spring comprising a body part and a torque part, said body part being arranged in a first fixed attachment in a first end from where it extends to the point of battery contact in a second end, wherein said torque part is adapted to provide a torque to the point of contact.*

Appeal Br. 11 (Claims Appendix).

---

<sup>2</sup> Throughout this Decision, we refer to: (1) Appellant's Specification filed March 17, 2015 ("Spec."); (2) the Final Office Action ("Final Act.") mailed July 29, 2016; (3) the Appeal Brief filed June 30, 2017 ("Appeal Br."); (4) the Examiner's Answer ("Ans.") mailed November 17, 2017; and the Reply Brief filed January 17, 2018 ("Reply Br.").

## REFERENCES AND REJECTIONS

Claims 1–7, 9, and 10 stand rejected under pre-AIA 35 U.S.C. § 102(b) as anticipated by Olsen (WO 98/47319, published Oct. 22, 1998). Final Act. 2–3.

Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Olsen, Giannetti (WO 86/06919, published Nov. 20, 1986) and Vignini (US 3,701,862, issued Oct. 31, 1972). Final Act. 4–5.

Our review in this appeal is limited to the above rejections and the issues raised by Appellant. Arguments not made are waived. 37 C.F.R. § 41.37(c)(1)(iv).

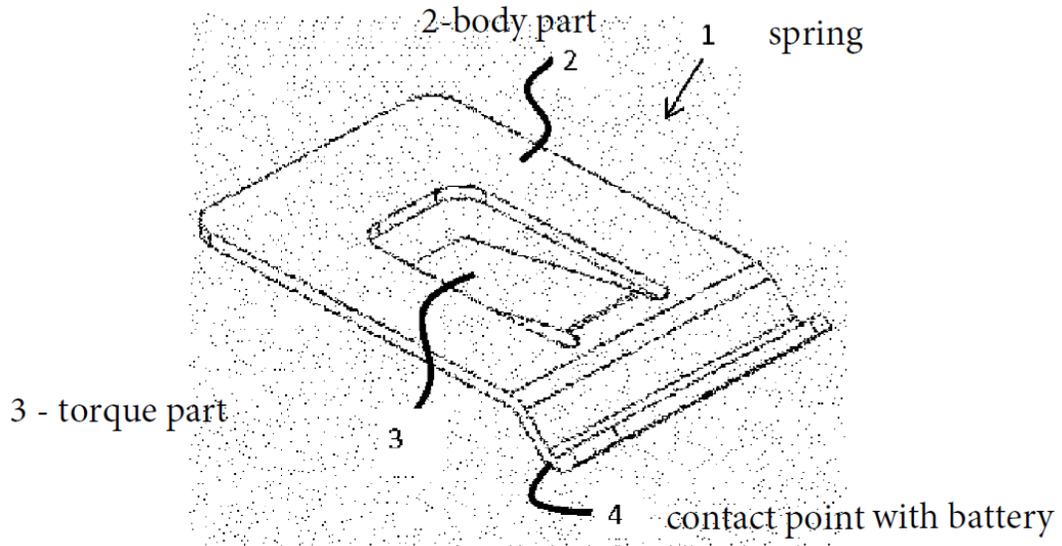
## ISSUE

Whether the Examiner errs in finding Olsen discloses a pre-stressed spring “comprising a body part and a torque part, said body part being arranged in a first fixed attachment in a first end from where it extends to the point of battery contact in a second end, wherein said torque part is adapted to provide a torque to the point of contact,” as recited in illustrative claim 1.

## DISCUSSION

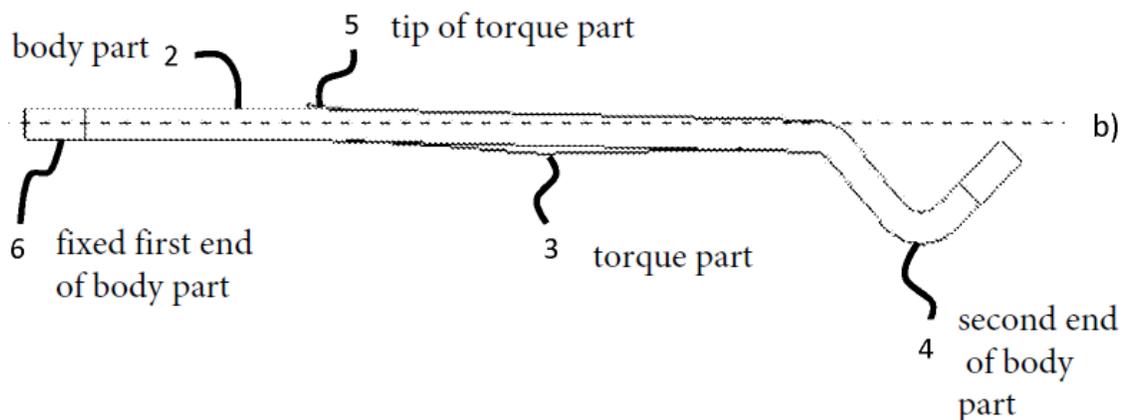
Appellant’s claimed invention recites a hearing aid having a one-piece pre-stressed spring 1 for securing a battery. *See* Spec. 3:6–16. The pre-stressed spring 1 includes a body part 2 and a torque part 3. *Id.* at 4:21–24. The body part 2 has a first fixed end 6 and a second end 4 that contacts the battery. *Id.* at 5:5–12. Fixing a tip 5 of torque part 3 back towards a horizontal plane of body part 2 generates a torque on the second end 4 of body part 2 for securing the battery. *Id.* at 5:9–13.

Appellant's Figure 1 is reproduced below with annotations added for clarity:



Appellant's Figure 1 shows a one-piece pre-stressed spring 1 including a torque part 3, and a body part 2 having a first fixed end 6 and a second end 4 for contacting the battery.

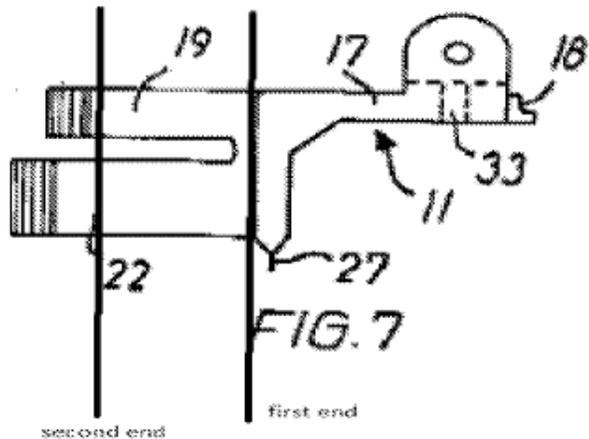
Appellant's Figure 2b, depicting a battery spring from a side view, is reproduced in part below with annotations added for clarity:



Appellant's Figure 2b shows how moving and securing the tip 5 of torque part 3 back towards the plane of the body part 2 generates a torque on

the second end 4 of body part 2 to provide the battery with a higher mechanical load than a conventional spring. Spec. 5:1–24.

Olsen’s Figure 7 is reproduced below with additional annotations included by the Examiner:



Olsen’s Figure 7 shows socket part 11 having lugs 19 formed with integral terminals 22.

The Examiner finds Olsen’s socket part 11, having protruding resilient lugs (“lugs”) 19 formed with integral battery terminals (“terminals”) 22, discloses the pre-stressed spring, as recited in claim 1. Final Act. 2–3 (citing Olsen Fig. 1, items 64, 66, and 70). Specifically, the Examiner finds Olsen’s lugs 19 disclose the claimed “body part” and Olsen’s terminals 22 disclose the claimed “torque part.” Final Act. 2.

Appellant argues the Examiner errs in finding Olsen discloses the limitations at issue because “the examiner considers the lug 19 of Olsen to be the claimed body part and the lug 22 of Olsen to be the claimed torque part,” but according to Appellant, lug 19 does not contact the battery. Appeal Br. 5. That is, Appellant argues that because claim 1 requires the body part to be fixed at a first end and to include a point of battery contact at

a second end, lug 19 does not disclose the body part because it does not contact the battery. *Id.*

The Examiner finds Appellant's argument unpersuasive because Olsen's lugs 19 and terminals 22 are integrally formed and thus Olsen's lugs make contact with the battery via terminals 22. Ans. 4 ("lugs 19 . . . may suitably be formed with integral battery terminals 22'. The lugs 19 via the terminals 22 . . . contact the battery 23").

Appellant responds,

The only part that satisfies the claim requirement for the body part is the lower arm of the Olsen's lug, but the examiner has identified the lower arm as the claimed torque part. The end result is that the examiner has now identified the lower arm of the lug 19 as both the body part and the torque part, which is not a reasonable reading of the claim language, nor is it a reasonable reading of Olsen.

Reply Br. 5.

We find Appellant's arguments persuasive. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros., Inc. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). "[D]ifferences between the prior art reference and a claimed invention, however slight, invoke the question of obviousness, not anticipation." *Net MoneyIN, Inc. v. VeriSign, Inc.*, 545 F.3d 1359, 1371 (Fed. Cir. 2008). Here, the Examiner does not sufficiently explain how Olsen's terminals 22 disclose both the "body part" and the "torque part" of claim 1. Furthermore, the Examiner does not demonstrate, in view of the finding that lugs 19 contact the battery "via the terminals 22," how Olsen's terminals 22 apply a torque to an end of lugs 19 that contact the battery, as

required by the claim (“said torque part is adapted to provide a torque to the point of contact”). Ans. 4.

Because we agree with at least one of the dispositive arguments advanced by Appellant for claim 1, we need not reach the merits of Appellant’s other arguments. Based on the record before us, we do not sustain the Examiner’s 35 U.S.C. § 102 rejection of independent claim 1, or, for the same reasons, the rejection of dependent claims 2–7, 9, and 10.

*35 U.S.C. § 103(a) Rejection of Claim 8*

We do not sustain, for similar reasons, the Examiner’s 35 U.S.C. § 103(a) rejection of claim 8, which depends from claim 1 and, thus, also recites the limitation at issue.

CONCLUSION

In summary:

<b>Claims Rejected</b>	<b>Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1–7, 9, and 10	§ 102(b) Olsen		1–7, 9, and 10
8	§ 103(a), Olsen, Giannetti, Vignini		8
<b>Overall Outcome</b>			1–10

REVERSED