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Stanley Black & Decker, Inc. 6201 Greenleigh Avenue, MR045 Middle River, MD 21220			MILLER, DANIEL R	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte NATHAN J. CRUISE, ROUSE ROBY BAILEY JR.,
SNEHAL S. CHOKSI, REGINA C. CUNANAN,
GEOFFREY S. HOWARD, ALEXIS W. JOHNSON,
ANDREW E. SEMAN, DANH T. TRINH,
DANIEL J. WHITE, and MICHELLE L. MILLER

Appeal 2018-005245
Application 15/003,932
Technology Center 2800

Before JOSEPH L. DIXON, STEVEN M. AMUNDSON, and
MICHAEL T. CYGAN, *Administrative Patent Judges*.

DIXON, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant,¹ appeals from the Examiner's decision to reject claims 2–8 and 10–16. (Final Act. 1.) Claims 1 and 9 are canceled. We have jurisdiction under 35 U.S.C. § 6(b). On January 23, 2020, Appellant's counsel presented arguments at an oral hearing.

¹ We use the word "Appellant" to refer to "Applicant" as defined in 37 C.F.R. § 1.42(a). Appellant identifies the real party in interest as Black & Decker Inc. (Appeal Br. 3.)

We AFFIRM.

CLAIMED SUBJECT MATTER

The claims are directed to battery pack chargers and methods capable of charging battery packs with varying physical characteristics and chemistries, including Li-ion batteries with higher charge/weight ratios. (Spec. ¶ 10.) Claim 2, reproduced below, is illustrative of the claimed subject matter:

2. A combination of a battery charger and a set of battery packs, comprising:

a charger comprising a battery interface, a set of charger terminals for providing a charging current, and a power supply circuit for providing a charging current scheme;

a set of rechargeable battery packs, each rechargeable battery pack of the set of rechargeable battery packs comprising a charger interface having a physical configuration to mate with the battery interface and a set of battery terminals;

wherein the charging scheme is defined by which of the battery terminals electrically mate with which of the charger terminals when the battery pack is physically mated with the charger which is determined by a length of the battery terminals in a mating direction between the rechargeable battery pack and the charger.

REFERENCE²

The prior art relied upon by the Examiner is:

Wakefield

US 5,729,115

Mar. 17, 1998

² Additionally, we note that the Examiner identified the Izenbaard et al. reference (US 5,187,422; issued Feb. 16, 1993) as a reference of interest with respect to electrically conductive contact blades 54 and 55 and 55S where the front short charger blade 55S is receivable by and can electrically

REJECTION

Claims 2–8 and 10–16 stand rejected under pre-AIA 35 U.S.C. § 102(b) as being anticipated by Wakefield.

OPINION

35 U.S.C. § 102(b)

With respect to claims 2–8, Appellant argues the claims as a group. Therefore, we select independent claim 2 as the representative claim for the group and will address Appellant’s arguments thereto. 37 C.F.R. § 41.37(c)(1)(iv) (2017).

We have reviewed Appellant’s arguments in the Appeal Brief and Reply Brief, the Examiner’s rejections, and the Examiner’s responses to Appellant’s arguments. For at least the reasons discussed below, we agree with and adopt the Examiner’s factual findings and legal conclusions, as set forth in the Final Action and Examiner’s Answer. In our analysis below, we highlight and address specific findings and arguments for emphasis.

At the outset, we note that independent claim 2 is directed to a “combination of a battery charger and a set of battery packs” and the “wherein” clause does not structurally limit the two claimed elements (a battery charger and a set of battery packs) in the claimed combination. Consequently, we find argument to the “wherein” clause to be unpersuasive of error in the Examiner’s finding of anticipation. Additionally, we note that

contact only the long spring contact 15 of the high storage capacity battery pack 13 and not the short spring contact 15A of the low storage capacity battery pack 13A. (Izenbaard 5:57–62.) (*See* Final Act. 8.) We leave it to the Examiner and Appellant to further consider this reference in any further prosecution on the merits.

the claimed “charger” merely sets forth “a power supply circuit for providing a charging current scheme” which is a single charging scheme. When the battery charger is mated to the rechargeable battery pack the physical connections necessarily would provide for an appropriate selection and determination of the single charging scheme. Furthermore, we find the “set of rechargeable battery packs” may both be the same battery type (chemistry type) and same terminal configuration for the single charging scheme so as to not require a selection between a plurality of available charging schemes.³

Regardless of the general contentions and imputed intended meanings articulated by Appellant in the Briefs, and during the oral hearing, we are bound by the controlling guidance of our reviewing court: “[i]t is the *claims* that measure the invention.” *See SRI Int’l v. Matsushita Elec. Corp. of Am.*, 775 F.2d 1107, 1121 (Fed. Cir. 1985) (*en banc*) (citations omitted); *In re Hiniker Co.*, 150 F.3d 1362, 1369 (Fed. Cir. 1998) (citations omitted) (“[T]he name of the game is the claim.”) (emphasis added). “Though understanding the claim language may be aided by the explanations contained in the written description, it is important not to import into a claim limitations that are not a part of the claim.” *SuperGuide Corp. v. DirecTV Enters., Inc.*, 358 F.3d 870, 875 (Fed. Cir. 2004). “We have cautioned against reading limitations into a claim from the preferred embodiment described in the specification, even if it is the only embodiment described,

³ Alternatively, if the charger recited a “plurality of charging schemes” then Appellant’s argument may have a better factual basis to distinguish the anticipation rejection, but we need not reach this distinction based upon the language of independent claim 2, and we make no findings regarding obviousness.

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absent clear disclaimer in the specification.” *In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1369 (Fed. Cir. 2004).

Appellant argues

a length of the battery terminals in a mating direction between the rechargeable battery pack and the charger being determinative of which of the battery terminals electrically mate with which of the charger terminals when the battery pack is physically mated with the charger, as set forth in claim 2, is NOT inherent to the Wakefield reference. In the Wakefield reference, all of the terminals 58A, 58B, 58C, 60A, 60B, 60C and 62B of all of the battery packs 28A, 28B, 28C have the same length in the mating direction. Or at least, that is what seems to be illustrated in Figures 5A-5C and there is no reference in the specification to indicate otherwise. As such, the length in the mating direction is NOT at all determinative of which battery terminals electrically mate with which charger terminals. More specifically, whether or not the battery terminals mate with the charger terminals in the Wakefield reference is NOT determined by the length of the battery terminals.

(Appeal Br. 10.) Appellant further argues:

While the charging scheme chosen in the Wakefield reference is based upon a terminal configuration it is NOT determined by a length of the battery terminals in a mating direction between the rechargeable battery pack and the charger, as recited in claim 2. The length of the terminals of the battery of the Wakefield reference is not determinative at all of the charging scheme. As such, an argument that this feature is inherent in the Wakefield reference is unfounded.

(Appeal Br. 10–11.)

Appellant also uses a mathematical analogy with an equation to show that although length of a battery terminal is always present, it plays no part

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in determining or solving which battery terminals electrically mate with which charger terminals. (Reply Br. 4.) Appellant also argues:

The point of claim 2 is that the length of the terminals is determinative of which battery terminals mate with which charger terminals. In other words, because all of the terminals in the Wakefield reference are all of the same length, the length of the terminals is not determinative at all of which of the battery terminals mate with which of the charger terminals.

(Reply Br. 4.)

We disagree with Appellant's arguments and find that the language of independent claim 2 is not commensurate in scope with the arguments because the claimed battery may include only two battery terminals which are the same length as in the Wakefield reference and the claimed battery may not have varied lengths. Moreover, claim 2 does not recite the charger has additional charging terminal(s) than those mated to the battery for alternative charging schemes. Arguments must be commensurate in scope with the actual claim language. *In re Self*, 671 F.2d 1344, 1348 (CCPA 1982); *see Hiniker*, 150 F.3d at 1369 (“[The] proffered facts . . . are not commensurate with the claim scope and are therefore unpersuasive.”).

Appellant contends that the physical characteristic of the length of the battery terminal is associated with a predefined charging scheme (of a plurality of predefined charging schemes which correspond to the varied battery chemistry types) where the combination of lengths of the battery terminals to the corresponding varied length charger terminals dictates the appropriate or corresponding charging scheme from the plurality of available schemes.⁴ (Appeal Br. 9–11.) Although this may correspond to the

⁴ Also, the “Summary of the Claimed Subject Matter” identifies paragraph 47 disclosing the relationship of the longer battery terminal to the shorter

disclosed invention, we cannot agree with Appellant that the language of independent claim 2 recites corresponding limitations to effectuate the desired scope of the claimed invention.

We find the claim language “wherein the charging scheme is defined by which of the battery terminals electrically mate with which of the charger terminals when the battery pack is physically mated with the charger which is determined by a length of the battery terminals in a mating direction between the rechargeable battery pack and the charger” does not necessarily claim the plurality of different length charger terminals and the plurality of possible varied length battery terminals.

Appellant argues because the lengths of the battery terminals in the Wakefield reference are all the same, the length of the battery terminals can be ignored and is not determinative of which of the battery terminals mate with which of the charger terminals. (Reply Br. 4; *see also* Reply Br. 5.) Appellant argues “[i]t is not that the terminals in the Wakefield reference may have the same length, it is that they do have the same length (and it is not in any way suggested that they have varying lengths)” and “because all of the battery terminals in the Wakefield reference are of the same length, the length of the battery terminals in the Wakefield reference does not determine, at all, which battery terminals mate with which charger terminals.” (Reply Br. 5.)

charging terminal. (Appeal Br. 7.) We find that the language of independent claim 2 does not provide sufficient corresponding limitations to the disclosed scope of Appellant’s disclosed invention to differentiate the claimed invention from the disclosure of the Wakefield reference.

We note claim terms are to be given their broadest reasonable interpretation, as understood by those of ordinary skill in the art and taking into account whatever enlightenment may be had from the Specification. *In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997). “In the patentability context, claims are to be given their broadest reasonable interpretations . . . limitations are not to be read into the claims from the specification.” *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (citations omitted).

We disagree with Appellant and find Appellant’s arguments are not commensurate in scope with the express language of independent claim 2 because there is no limitation of having terminals with varying lengths in the claimed invention. This is because the claim does not set forth positive limitations about the structure of the batteries or the charger, but in a functional or process-type limitation regarding the structure of the combination of claimed items. We find that the language of independent claim 2 does not specifically recite the specific physical characteristics and orientation of the battery terminals as defining or corresponding to an appropriate charging scheme from a plurality of available charging schemes which correspond to appropriate charger terminals where the length of the battery terminals define the appropriate charging scheme (without further determination by the charger).⁵

⁵ We further note that the structure and lengths of battery terminals are set by the tool manufacturers where the single battery type and battery configuration of terminals necessarily dictate prior art charging or non-charging depending on the mating and characteristics or relationship of the battery to the charger. Rather, the language of independent claim 2 does not specifically differentiate from a single battery type with a single battery scheme of charging under the broadest reasonable interpretation of the language of independent claim 2. Moreover, we find independent claim 2 reads on a single battery type and a single corresponding battery charger

We agree with the Examiner that the Wakefield reference discloses that the Wakefield reference discloses a relationship between the charger and battery terminals that dictates the charging scheme to be applied. As explained by the Examiner, Wakefield disclose that for a nickel metal hydride battery, which has a certain length that mates with charger terminals of a corresponding spaced length, a suitable charging scheme is applied. Ans. 12 (citing Wakefield 6: 5–24); *see also* Wakefield 5:4–12, 34–49). The Examiner further explains that the charging scheme is defined only after Wakefield’s charging terminals mate with a battery having battery terminals of a corresponding length, and a voltage is read across those terminals. *Id.* Accordingly, we agree with the Examiner’s finding that Wakefield discloses the claimed the claimed “wherein the charging scheme is defined by which of the battery terminals electrically mate with which of the charger terminals when the battery pack is physically mated with the charger which is determined by a length of the battery terminals in a mating direction between the rechargeable battery pack and the charger.” (Final Act. 4–5, 7; *see also* Final Act. 8 (“previously-cited US 5,187,422 to Izenbaard”.)

As a result, we find Appellant’s arguments do not show error in the Examiner’s finding of anticipation based upon the Wakefield reference of independent claim 2 and independent claim 10 not separately argued. (Appeal Br. 11.)

Appellant does not set forth separate arguments for patentability of dependent claims 3–8 and 11–16. (Appeal Br. 11.) As a result, dependent claims 3–8 fall with representative independent claim 2. Arguments which

scheme where the mating of the battery to the terminal would define and correspond to the physical relationship of the two parts to provide a charging scheme to the battery.

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Appellant could have made but did not make in the Briefs are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(iv).

DECISION

The Examiner's anticipation rejection is affirmed.

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Basis	Affirmed	Reversed
2-8, 10-16	102	Wakefield	2-8, 10-16	

FINALITY AND RESPONSE

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

AFFIRMED