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14/716,950	05/20/2015	David K. Lim	MM01256	2868

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EXAMINER	
DEPEW, KEITH A	

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DAVID K. LIM, JOSEPH ALLORE, and MICHAEL J. LOMBARDI

Appeal 2018-008950
Application 14/716,950
Technology Center 2800

Before BRADLEY R. GARRIS, CATHERINE Q. TIMM, and JAMES C. HOUSEL, *Administrative Patent Judges*.

GARRIS, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

Appellant[1] timely requests rehearing of our Decision sustaining the Examiner's § 102(a)(1) rejection of claims 1, 3, 6, 8, 10, and 12 as anticipated by Yamada (US 2015/0062460 A1; published Mar. 5, 2015).

In the subject Request, Appellant states that the Decision "misconstrues the Appellant's argument [presented in the Reply Brief] as to why [the independent claim phrase] 'affixed to' ***cannot*** mean simply 'move[] as one' [as interpreted in the Examiner's Answer]" (Req. Reh'g 2). Appellant argues that favorable reconsideration of our Decision is warranted

[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 MOTOROLA MOBILITY LLC. Appeal Br. 2

because "the Examiner's interpretation of 'affixed to' [in the Examiner's Answer] was dispositive to the Board's affirmance of the Examiner's rejection[]" (*id.* at 3).

As background, the Decision notes that, "in the Final Office Action, the Examiner interprets the claim term 'affixed' as 'fail[ing] to specify . . . directly affixed . . . with no intervening elements' (Final 5; *see also id.* at 6)" (Dec. 4). The Decision also notes that, "[i]n the Answer, the Examiner embellishes this claim interpretation by stating 'the claim term 'affixed' . . . in broad interpretation is taken to mean things which are assembled together so as to move as one' (Ans. 3)" (*id.*). The Request correctly indicates that the Decision addresses the argument presented in the Reply Brief contesting the Examiner's interpretation in the Answer of "affixed" as meaning "move as one" (Dec. 4–5). However, in sustaining the Examiner's rejection, the Decision adopts the Examiner's interpretation of "affixed" in the Final Office Action and emphasizes that "Appellant [in the Appeal and Reply Briefs] does not show error in, or even acknowledge, this claim interpretation" (*id.* at 5). Furthermore, the Decision explicitly states, "[w]e express no opinion regarding the embellished claim interpretation made by the Examiner in the Answer" (*id.* at n. 3).

Significantly, Appellant's above quoted statement and argument in the Request involve only the claim interpretation in the Answer about which the Decision expresses no opinion. Indeed, the subject Request, like the Appeal and Reply Briefs, does not address, and, therefore, fails to show error in, the Final Office Action claim interpretation that forms the basis of our Decision to sustain the Examiner's rejection.

Appellant's Request for Rehearing is Denied.

CONCLUSION

Outcome of Decision on Rehearing:

Claims	35 U.S.C §	Reference(s)/Basis	Denied	Granted
1, 3, 6, 8, 10, 12	102(a)(1)	Yamada	1, 3, 6, 8, 10, 12	

Final Outcome of Appeal after Rehearing:

Claims	35 U.S.C §	Reference(s)/Basis	Affirmed	Reversed
1, 3, 6, 8, 10, 12	102(a)(1)	Yamada	1, 3, 6, 8, 10, 12	

DENIED