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60840	7590	03/20/2020	EXAMINER	
MICHAEL, BEST & FRIEDRICH LLP (MT) 100 EAST WISCONSIN AVENUE SUITE 3300 MILWAUKEE, WI 53202			ZHANG, RACHEL L	
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* ANDREW T. BEYERL, MICHAEL KOLDEN,  
TROY C. THORSON, JEFFREY M. WACKWITZ,  
and JEFFREY S. HOLLY

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Appeal 2019-002177  
Application 15/173,007  
Technology Center 1700

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Before JEFFREY T. SMITH, JULIA HEANEY, and  
MICHAEL G. MCMANUS, *Administrative Patent Judges*.

HEANEY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE<sup>1</sup>

Pursuant to 35 U.S.C. § 134(a), Appellant<sup>2</sup> appeals from the Examiner's decision to reject claims 1–20. Final Act. 2. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

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<sup>1</sup> In this Decision, we refer to the Final Action dated May 17, 2018 (“Final Act.”), the Appeal Brief dated August 28, 2018 (“Appeal Br.”), the Examiner's Answer dated November 13, 2018 (“Ans.”), and the Reply Brief dated January 14, 2019 (“Reply Br.”).

<sup>2</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 Milwaukee Electric Tool Corporation. Appeal Br. 1.

### CLAIMED SUBJECT MATTER

The subject matter on appeal relates to a battery pack for a power tool.

Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A battery pack connectable to and supportable by a power tool, the battery pack comprising:

a housing that includes a support portion operable to interface the battery pack with the power tool, *the support portion including a support member operable to reinforce the support portion*, the support member made of a different material than the housing.

Appeal Br. 16 (Claims Appendix) (emphasis added).

### REJECTION

Claims 1–20 are rejected under 35 U.S.C. § 102(a)(2) as being anticipated by White.<sup>3</sup> Ans. 3. The Examiner designated this rejection as a new ground in the Answer. Ans. 3. Appellant responded in the Reply Brief pursuant to 37 C.F.R. § 41.37(c)(1)(iv).

### OPINION

The Examiner finds that White discloses a battery pack which may be connected to a power tool system, and that the battery pack comprises a housing that includes a support portion 715 (White Fig. 68) including a support member 761 (*id.*, Figs. 73, 78, 80), as recited in claims 1 and 12. Ans. 3–4. The Examiner further finds that White’s support member comprises metal power traces 790, 792 made of a different material from the housing. Ans. 4 (citing White Figs. 77A, 81C, 82).

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<sup>3</sup> White et al., US 2016/0020443 A1, published Jan. 21, 2016 (“White”).

Appellant argues that White's support board 761 is not a "support member" as required by claims 1 and 12, for several reasons. Reply Br. 5–8. Appellant argues that White's support board 761 and its metal power traces 790, 792 are not part of top housing 715 (*id.* at 6 (citing White Figs. 72, 73)), and that White Figs. 68 and 77A, relied upon by the Examiner, demonstrate that top housing 715 is separate from support board 761. *Id.* at 6–7. Therefore, Appellant argues, support board 761 is not included in the support portion of the battery pack housing. *Id.* at 7. Appellant further argues that the Examiner provides no indication or explanation of how leads 792a-d or support board 761 "reinforce the support portion" of the battery pack's housing. Reply Br. 7–8.

Appellant's argument persuasively identifies reversible error because the rejection does not demonstrate that White's support board 761 is a "support member" as required by the claimed invention. We agree with Appellant that independent claims 1 and 12 require that the support member is included in the support portion, which is included in the housing. The Examiner has not shown that support board 761 is affixed, attached, or fastened to top housing 715 or housing 712. Therefore, support board 761, which White discloses as housing electrical connections which may support printed circuit board 760, is not included in top housing 715, nor operable to reinforce it. White Figures 74, 78 and ¶ 816. Accordingly, we reverse the rejection of claims 1 and 12.

Independent claim 19 includes limitations similar to the limitation of claims 1 and 12 discussed above. Therefore, we reverse the rejection of claim 19 for the same reasons as discussed above, as well as the rejections of

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dependent claims 2–11, 13–18 and 20. Because we find reversible error, we need not reach Appellant’s additional arguments for reversal.

CONCLUSION

The Examiner’s rejection is REVERSED.

DECISION SUMMARY

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1–20	102(a)(2)	White		1–20

REVERSED