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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/644,855	03/11/2015	Toshio Tetsuka	SIC-11-018-2	6602
29863	7590	10/01/2020	EXAMINER	
DELAND LAW OFFICE			STORMER, RUSSELL D	
P.O. BOX 69			ART UNIT	PAPER NUMBER
KLAMATH RIVER, CA 96050-0069			3993	
			NOTIFICATION DATE	DELIVERY MODE
			10/01/2020	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte TOSHIO TETSUKA

Appeal 2019-006235
Reissue Application 14/644,855
Patent 8,833,182
Technology Center 3900

Before ALLEN R. MacDONALD, ERIC B. CHEN, and JENNIFER L. McKEOWN, *Administrative Patent Judges*.

McKEOWN, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

Pursuant to 37 C.F.R. § 41.52, Appellant¹ requests rehearing of our Decision dated January 17, 2020 (“Decision”), in which we affirmed the Examiner’s decision to reject claims 1, 3, 5, 6, 9–20, 22–25, 28–32 and 34–42 under 35 U.S.C. § 103 as unpatentable over the cited prior art.² Request for Rehearing, dated February 18, 2020 (“Request”). We have reconsidered the Decision in light of Appellant’s Request and, for the reasons noted

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 Shimano, Inc. Appeal Br. 1.

² We note that Appellant only requests rehearing on claims 1, 9, and 10. Thus, we do not reconsider our Decision on claims 3, 5, 6, 11–20, 22–25, 28–32 and 34–42. We also note that, in the Decision, we reversed the rejection of the Specification and the rejection of claim 8.

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below, we decline to modify our Decision.

Appellant argues that the Decision overlooks Appellant's arguments regarding Phillips and Videon. Request 1–2. In particular, Appellant explains that the Appeal Brief expressly addresses Phillips and Videon (*see* Appeal Br. 12–13), but focuses on Longman because the Examiner finds “Longman taught the recited electrical connector that remains at the crank arm when the measurement board is absent from the crank arm. . . .” Request 2. Appellant additionally argues that the Decision overlooks “the fact that the claims require ‘the electrical connector remains at the crank arm when the measurement board is absent from the crank arm’. . . not when some arbitrary second electrical connector is removed from the crank arm.” Request 3 (emphasis omitted). Finally, Appellant argues that the Examiner fails to perform the required motivation analysis to support the combination of Phillips and Videon with Longman. Request 3–4.

Appellant's arguments fail to persuasively identify any points that the Board has misapprehended or overlooked or identify error in the Decision. As discussed in the Decision, Appellant challenges the teaching of each cited prior art individually, but does not address the *combination* as set forth by the Examiner. *See, e.g.*, Decision 9. For example, the Final Rejection does not find Longman alone teaches detachable connectors where the electrical connector *remains at the crank arm when the measurement board is absent from the crank arm*. Instead, the Examiner explains “[a]t least some of the sockets, jacks, and plug taught by Longman would remain with the cranks arm when the measurement board of *Phillips* is absent.” Ans. 14 (emphasis added). *See also* Final Act. 8 (combining Phillips and Videon to

teach the claimed detachably mounted measurement board). In other words, the Examiner only relies on Longman as teaching detachable electrical connectors generally, where one of the connectors remain with the device when the corresponding connector is detached or removed. *See* Final Act. 9 (“[Longman’s] apparatus may include electrical wiring and electrical connectors configured to detachably connect to other electrical connectors.”); Longman p. 18, l. 22–p. 19, l. 4; (teaching electrical connections between the device and the detachable charging means); Ans. 16 (“The explanation on page 20 [of the Final Action] merely points out that by using sockets, plugs, and jacks, Longman teaches that one electrical connector [of the device] can remain at the crank arm when a second electrical connector [of the charging means] is removed.”). The Examiner combines Longman’s detachable electrical connectors with the detachably mounted measurement board of Phillips in view of Videon to arrive at the claimed invention. Final Act. 8–9. As such, we are not persuaded the Decision overlooks arguments with respect to Philips and Videon or overlooks the disputed claim limitation of “the electrical connector remains at the crank arm when the measurement board is absent from the crank arm.”

Appellant’s final argument, that the Examiner fails to perform the required motivation analysis and provide sufficient support for the cited combination, is presented for the first time in the Request. *See, e.g.*, Appeal Br. 17 (concluding only that the three prior art references fails to teach the disputed limitation without challenging the Examiner’s reasons to combine); Appeal Br. 13–17 (arguing only that none of Phillips, Videon, or Longman

teach the disputed limitation). Appellant, therefore, fails to persuasively identify how the Decision misapprehends or overlooks this argument. *See also* MPEP § 1214.03(a)(1) (“Arguments not raised, and Evidence not previously relied upon. . . are not permitted in the request for rehearing”³); *Ex parte Borden*, 93 USPQ2d 1473, 1474 (BPAI 2010) (informative decision) (“Any bases for asserting error, whether factual or legal, that are not raised in the principal brief are waived.”).

Moreover, Appellant’s argument only generally asserts the Examiner’s reasoning is insufficient without persuasive explanation or support. *See, e.g.*, Request 3–4 (asserting generally the reasons to combine the cited prior art is insufficient but failing to explain why the reasons provided by the Examiner are insufficient). As such, based on the record before us, Appellant’s arguments are unpersuasive.

CONCLUSION

While we have considered the arguments raised by Appellant in the Request, we find them not persuasive to identify error in the original Decision. Based on the record before us now and in the original appeal, we are still of the view that the Examiner did not err in rejecting claim 1, 9, and 10.

³ We note that MPEP § 1214.03(a)(2)–(4) identify exceptions when a new argument is permitted, however, those exceptions are not applicable here.

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Outcome of Decision on Rehearing:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Denied	Granted
1, 10	103	Phillips, Videon, Longman	1, 10	
9	103	Phillips, Videon, Longman, Meyer	9	
Overall Outcome			1, 9, 10	

Final Outcome of Appeal after Rehearing:

Claims Rejected	35 U.S.C. §/ 37 C.F.R.	Reference(s)/ Basis	Affirmed	Reversed
Drawings/ Specification	Objection - 37 C.F.R. 1.75(d)(1)			Drawings/ Specification
3, 5, 6, 14, 15, 22, 36, 38	112, first (pre-AIA)			3, 5, 6, 14, 15, 22, 36, 38
1, 3, 5, 6, 8, 10–20, 22– 25, 28–32, 34–42	103	Phillips, Videon, Longman	1, 3, 5, 6, 10–20, 22– 25, 28–32, 34–42	8
9	103	Phillips, Videon, Longman, Meyer	9	
Overall Outcome			1, 3, 5, 6, 9–20, 22– 25, 28–32, 34–42	8

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TIME PERIOD FOR 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).

DENIED