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| 15/879,180 | 01/24/2018 | Shinji HIROSE | SDJ-723-4594 | 9433 |

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| EXAMINER | |
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| HENZE-GONGOLA, DAVID V | |

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* SHINJI HIROSE,
DAISUKE KUMAZAKI, and TAKAFUMI NISHIDA

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Appeal 2019-006742
Application 15/879,180
Technology Center 2800

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Before GEORGE C. BEST, BRIAN D. RANGE, and
MICHAEL G. McMANUS, *Administrative Patent Judges.*

RANGE, *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 1–13 and 15–28. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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[1] 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 NINTENDO CO., LTD. Appeal Br. 3.

## CLAIMED SUBJECT MATTER[2]

Appellant describes the invention as relating to a charger and charge system for charging an electronic device placed on a pedestal. Spec. 1:9–10. Claim 1 is illustrative:

> 1. A charger that charges an electronic device that includes a first electrical connector with a first electrical contact, a first fitting portion offset from a first surface, and a second fitting portion offset from a second surface different from the first surface, the charger comprising:
>
> a third fitting portion configured to fit within the first fitting portion, the third fitting portion being non-conductive;
>
> a fourth fitting portion configured to fit within the second fitting portion simultaneously with the third fitting portion being fit within the first fitting portion, the fourth fitting portion being non-conductive;
>
> a second electrical connector, with a second electrical contact, configured to be electrically connected to the first electrical connector of the electronic device simultaneously with the fourth fitting portion being fitted to the second fitting portion; and
>
> a placement portion that includes the third fitting portion, the fourth fitting portion and the second electrical connector, and the placement portion is configured to receive the electronic device and hold the electronic device in a predetermined orientation, wherein
>
> the first electrical connector and the second electrical connector are configured to engage in an engaging direction;
>
> the third fitting portion is configured to partially fit within the first fitting portion due to movement of the charger

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[2] In this Decision, we refer to the Non-Final Office Action dated January 22, 2019 ("Non-Final Act."), the Appeal Brief filed June 11, 2019 ("Appeal Br."), the Examiner's Answer dated July 16, 2019 ("Ans."), and the Reply Brief filed September 13, 2019 ("Reply Br.").

> and the electronic device towards each other along the engaging direction before the first electrical connector and the second electrical connector are electrically connected; and
>
> the third fitting portion roughly aligns the first electrical connector with the second electrical connector and the fourth fitting portion aligns the first electrical connector with the second electrical connector more precisely than the third fitting portion.

Appeal Br. 15 (Claims App.).

## REFERENCES

The Examiner relies upon the prior art below in rejecting the claims on appeal:

| **Name** | **Reference** | **Date** |
|---|---|---|
| Léman et al. (“Léman”) | US 5,229,701 | July 20, 1993 |
| Shindo et al. (“Shindo”) | US 2015/0362953 A1 | Dec. 17, 2015 |

## REJECTION

The Examiner maintains (Ans. 3) the following rejection on appeal: Claims 1–13 and 15–28 under 35 U.S.C. § 103 as obvious over Shindo in view of Léman. Non-Final Act. 5.

## OPINION

We review the appealed rejections for error based upon the issues identified by Appellant and in light of the arguments and evidence produced thereon. *Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential), *cited with approval in In re Jung*, 637 F.3d 1356, 1365 (Fed. Cir. 2011) (“[I]t has long been the Board’s practice to require an applicant to identify the

alleged error in the examiner's rejections."). After considering the evidence presented in this Appeal and each of Appellant's arguments, we are not persuaded that Appellant identifies reversible error. Thus, we affirm the Examiner's rejections for the reasons expressed in the Final Office Action and the Answer. We add the following primarily for emphasis.

Appellant argues all claims as a group. *See* Appeal Br. 8–14. Therefore, consistent with the provisions of 37 C.F.R. § 41.37(c)(1)(iv) (2013), we limit our discussion to claim 1, and all other claims on appeal stand or fall together with claim 1.

The Examiner finds that Shindo teaches a charger that charges an electronic device having most of the structure of claim 1. Non-Final Act. 5–8 (citing Shindo). The Examiner finds that Shindo does not teach that the first fitting portion is offset from the first surface and does not teach that the third fitting portion fits within the first fitting portion. *Id.* at 8. The Examiner finds, however, that Léman teaches a portable electronic device and charging stand comprising a first fitting portion offset from the first surface and the third fitting portion fits within the first fitting portion. *Id.* (citing Léman). The Examiner determines that it would have been obvious to modify Shindo to include Léman's offset first fitting portion and Léman's third fitting portion "for the purpose of properly aligning the device to be charged with the charging contacts." *Id.*

Appellant first argues that Shindo does not disclose or suggest "a third fitting portion configured to fit within the first fitting portion" according to claim 1. Appeal Br. 8. The Appellant and the Examiner dispute whether or not the lower back of Shindo's device is a "fitting portion" within the meaning of claim 1 and whether, relatedly, Shindo would have a

corresponding third fitting portion as claim 1 recites. Appeal Br. 8–10; Ans. 5–6; Reply Br. 1–4. This dispute is not important to the rejection at hand. The Examiner relies on Léman rather than Shindo to reach claim 1's recited "third fitting portion configured to fit within the first fitting portion." Non-Final Act. 8; Ans. 6–7. Appellant does not persuasively dispute that Léman teaches such a fitting portion. Appellant's argument is, therefore, unpersuasive of error.

Appellant also presents two arguments why the Examiner's stated rationale for combining the teachings of Shindo and Léman is unreasonable. Appeal Br. 10–13; Reply Br. 4–5. First, Appellant argues that there is no reason to add Léman's features to achieve alignment into Shindo because Shindo already includes features to provide proper alignment. *Id.* at 10–11 (quoting Shindo ¶ 8). The Examiner, however, determines that a person of skill in the art would have combined Léman's protrusion 5 and groove 6 to improve Shindo's alignment "including guiding and maintenance in an alternative dimension (laterally)." Ans. 8. Also, Léman's structure would "prevent the equipment from falling and the electric contacts from disengaging even if the equipment or the charger should be tilted." *Id.* (quoting Léman 2:29–34).

The Examiner's position is supported by the preponderance of the evidence. Léman's structure allows proper alignment when inserting the device because its alignment grooves extend from the bottom of the charger upwards to the first insertion point. *See, e.g.*, Léman Fig. 1, 2:29–34. These alignment grooves would also, as the Examiner finds, prevent the device from falling out of the charger if the charger is tipped. *Id.*; Ans. 8.

Second, Appellant argues that combining Léman's alignment structure into Shindo would introduce misalignment due to locational tolerances (i.e., errors) in manufacture. Appeal Br. 11–13; Reply Br. 5–6. The Examiner, however, determines that additional manufacturing tolerance considerations might be a worthy sacrifice given the Léman structure's additional benefits. Ans. 9–10. Moreover, Shindo's deformable electrodes (Shindo Fig. 6B, ¶ 70) would have helped compensate slight locational error during manufacture. We agree with the Examiner that a person of skill in the art would have weighed the advantages and disadvantages of combining the Léman structure with Shindo and made an appropriate judgment based on a given application. *Medichem, S.A. v. Rolabo, S.L.*, 437 F.3d 1157, 1165 (Fed. Cir. 2006) ("a given course of action often has simultaneous advantages and disadvantages, and this does not necessarily obviate motivation to combine"). Appellant's argument is therefore unpersuasive.

Because Appellant's arguments do not identify error, we sustain the Examiner's rejection.

## CONCLUSION

In summary:

| Claims Rejected | 35 U.S.C. § | Reference(s)/Basis | Affirmed | Reversed |
|---|---|---|---|---|
| 1–13, 15–28 | 103 | Shindo, Léman | 1–13, 15–28 | |

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).

AFFIRMED