

The opinion in support of the decision being entered today  
was **not** written for publication in a law journal and  
is **not** binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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**Ex parte** JOHN BRETT BARRY, MICHAEL G. AMARO  
MARK DANIEL FLESZEWSKI AND JEFFREY T. BELLANDI

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Appeal No. 2005-1765  
Application No. 10/208,077

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ON BRIEF

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Before KRASS, RUGGIERO and NAPPI, **Administrative Patent Judges.**

NAPPI, **Administrative Patent Judge.**

**DECISION ON APPEAL**

This is a decision on appeal under 35 U.S.C. § 134 of the final rejection of  
claims 1 through 4.

**Invention**

The invention relates to a socket to which an electrical assembly is  
plugged in. Each electrical connection of the socket has a double wiping contact,  
which contacts a pin of the assembly. The first contact point wipes the contact  
surface on the assembly and the second makes the electrical connection. Two  
double wiping contacts are provided on opposite sides of the contact surfaces.  
See page 2, and figures 2 and 6 of appellants' specification.

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Claim 1 is representative of the invention:

1. A contact for electrical connection to a pin or contact surface, comprising:  
a first elongate body of conductive material having first and second ends;  
a first angled portion of said first elongated body adjacent said first end;  
a first contact point of said first elongated body adjacent said first angled portion;  
a second contact point of said first elongated body spaced from said first contact point;  
an anchor of said first elongated body adjacent said second end;  
a second elongated body of conductive material;  
a second angled portion of said second elongated body;  
a third contact point of said second elongated body adjacent said second angled portion;  
a fourth contact point of said second elongated body spaced from said third contact point;  
wherein said first contact point is pressed against said third contact point and said second contact point is pressed against said fourth contact point.

### **Reference**

The reference relied upon by the examiner is:

|        |           |               |
|--------|-----------|---------------|
| Nelson | 4,363,941 | Dec. 14, 1982 |
|--------|-----------|---------------|

### **Rejections at Issue**

Claims 1 through 4 stand rejected under 35 U.S.C. § 102 as being anticipated by Nelson. Throughout the opinion we make reference to the brief and the answer for the respective details thereof.

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### Opinion

We have carefully considered the subject matter on appeal, the rejection advanced by the examiner and the evidence of anticipation relied upon by the examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, the appellants' arguments set forth in the brief along with the examiner's rationale in support of the rejection and arguments in rebuttal set forth in the examiner's answer.

With full consideration being given to the subject matter on appeal, the examiner's rejection and the arguments of appellants and examiner, for the reasons stated *infra* we affirm the examiner's rejection of claims 1 through 4 under 35 U.S.C. § 102.

At the outset we note that the appellants' arguments only address independent claim 1, accordingly we group claims 1 through 4 and treat claim 1 as the representative claim. See 37 C.F.R. § 1.192(c) (7) (July 1, 2003) as amended at 62 Fed. Reg. 53196 (October 10, 1997), which was controlling at the time of appellants filing the brief.

Appellants argue, on pages 5 and 6 of the brief:

Nelson does not disclose or suggest the presently claimed invention including the first contact point being pressed against the third contact point and the second contact point being pressed against the fourth contact point.

Nelson discloses contact points 62 and 64 referring to Figures 11-15.

The contact points contact the printed circuit board 13 however; they are not pressed against each other.

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The examiner's statement of the rejection is set forth on page 3 of the answer. The examiner states on page 4 of the answer, "although the claim requires that the contact points press against each other, this does not necessarily require direct or physical contact." Further, the examiner maintains that Nelson's contacts do press against each other.

We concur with the examiner's rationale. Claims will be given their broadest reasonable interpretation consistent with the specification; limitations appearing in the specification will not be read into the claims. *In re Etter*, 756 F.2d 852, 858, 225 USPQ 1, 5 (Fed. Cir. 1985). In analyzing the scope of the claim, office personnel must rely on the appellant's disclosure to properly determine the meaning of the terms used in the claims. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 980, 34 USPQ2d 1321, 1330 (Fed. Cir. 1995). "[I]nterpreting what is *meant* by a word *in* a claim 'is not to be confused with adding an extraneous limitation appearing in the specification, which is improper.'" (emphasis original) *In re Cruciferous Sprout Litigation*, 301 F.3d 1343, 1348, 64 USPQ2d 1202, 1205, (Fed. Cir. 2002) (citing *Intervet America Inc v. Kee-Vet Laboratories Inc.*, 887 F.2d 1050, 1053, 12 USPQ2d 1474, 1476 (Fed. Cir. 1989)). Appellants' specification does not define "press against", and appellants' have not contested the examiner's interpretation of the claim term as not requiring direct contact. Thus, the examiner has found, and we concur, that the claim term "press against" includes, indirectly pressing against, i.e. through an intermediary. Accordingly, we consider the scope of claim 1's limitation of

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“said first contact point is pressed against said third contact point and said second contact point is pressed against said fourth contact point” to include that the contacts press against one another through an intermediary.<sup>1</sup>

Having determined the scope of the claim, we next consider the teachings of Nelson. Initially we note that, contrary to the appellants’ arguments that address Nelson’s contacts 62 and 64, the examiner finds that Nelson’s contacts 65 and 64 meet the claims first through fourth contacts. Nonetheless, whether considering the contacts 62 and 64 or 65 and 64, we find that Nelson teaches the set of opposing contacts on opposing elongate bodies 63, which push against each other. As can be seen from Nelson’s figure 6, contacts 62 push against each other through circuit board 13, and contacts 65 push against each other through patch plug insulating section 76. As can be seen from Nelson’s figure 6A, contact portions 64 press against each other through circuit board 13. Thus, regardless of which pairs of contacts are considered to meet the claimed invention, we find that Nelson teaches the claimed contacts pressing against each other. Accordingly, we sustain the examiner’s rejection of claims 1 through 4.

Only those arguments actually made by appellants have been considered in this decision. Arguments which appellants could have made but chose not to make in the brief or by filing a reply brief have not been considered and are

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<sup>1</sup> Though not discussed by either the examiner or appellants, we additionally note that we do not consider claim 1 to require that the first and third contacts press against each other when the second and fourth contacts press against each other.

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deemed waived by appellants [see 37 CFR § 1.192(a)] Support for this rule has been demonstrated by our reviewing court in *In re Berger*, 279 F.3d 975, 984, 61 USPQ2d 1523, 1528-29 (Fed. Cir. 2002) wherein the Federal Circuit Court stated that because the appellants did not contest the merits of the rejections in his brief to the Federal Circuit Court, the issue is waived. **See, also In re Watts**, 354 F.3d 1362, 1368, 69 USPQ2d 1453, 1458 (Fed. Cir. 2004).

In view of the forgoing, we have sustained the examiner's rejection of claims 1 through 4 under 35 U.S.C. § 102. The decision of the examiner is affirmed.

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

**AFFIRMED**

|                             |   |                 |
|-----------------------------|---|-----------------|
| ERROL A. KRASS              | ) |                 |
| Administrative Patent Judge | ) |                 |
|                             | ) |                 |
|                             | ) |                 |
| JOSEPH F. RUGGIERO          | ) | BOARD OF PATENT |
| Administrative Patent Judge | ) | APPEALS AND     |
|                             | ) | INTERFERENCES   |
|                             | ) |                 |
|                             | ) |                 |
| ROBERT E. NAPPI             | ) |                 |
| Administrative Patent Judge | ) |                 |

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