

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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 CHIEH RUNG HUANG and MING-LUN SZU

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Appeal No. 2006-2526  
Application No. 10/377,942

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ON BRIEF

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Before KRASS, RUGGIERO, and BLANKENSHIP, Administrative Patent Judges.  
BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 19 and 23, which are all the claims remaining in the application.

We affirm.

BACKGROUND

The invention relates to contacts used in an electrical connector adapted to connect a printed circuit board (PCB) with an electrical package. Representative claim 19 is reproduced below.

19. An electrical connector assembly comprising:

a plate with conductive pads on an undersurface thereof;

an insulative housing located under said plate and defining a plurality of passageways therein;

a plurality of contacts disposed in the corresponding passageways, respectively;

each of said contacts including a retaining portion fastening the contact in the passageway, a body portion extending upwardly from the retaining portion, and an arm portion extending upwardly from a lateral edge of an upper portion of the body portion and beyond an upper face of the housing and engaged with the corresponding pad;

wherein said arm portion resides in a first plane which is angled relative to a second plane defined by said body portion, and wherein said arm portion extends obliquely relative to said upper face;

wherein said first plane is oblique relative to the second plane;

wherein said first plane is vertical relative to the housing, and said second plane is vertical relative to the housing and is oblique relative to the first plane from a top view of the housing.

The examiner relies on the following reference:

Hsiao

US 6,210,176 B1

Apr. 3, 2001

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Claims 19 and 23 stand rejected under 35 U.S.C. § 102 as being anticipated by Hsiao.

We refer to the Final Rejection (mailed Jul. 16, 2004) and the Examiner's Answer (mailed Feb. 24, 2006) for a statement of the examiner's position and to the Brief (filed Dec. 19, 2005) and the Reply Brief (filed Apr. 27, 2006) for appellants' position with respect to the claims which stand rejected.

#### OPINION

The examiner has applied Hsiao against the claims in a 35 U.S.C. § 102 rejection for anticipation. Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984).

The examiner provided illustrations in the Final Rejection with respect to how the claims (e.g., present claim 19) were deemed to read on the Hsiao disclosure. Appellants in the Brief, however, allege that language such as that relating to a body portion "extending upwardly from" the retaining portion, and that relating to the first plane and the second plane, distinguish over the reference.

In response, the examiner in the Answer reproduces Figures 3 and 5 from the reference along with added material, such as illustrative planes that are drawn and deemed to be within the limitations of claims 19 and 23. Rather than reproduce the

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examiner's drawings and related findings in this opinion, we refer the reader to the Answer.

Appellants in response (Reply Brief at 5) contend that the illustrative drawings should be considered a new ground of rejection. Whether the Answer contains, in effect, a new ground of rejection is not a matter within our jurisdiction. Moreover, any allegation that an examiner's answer contains a new ground of rejection not identified as such is waived if not timely raised by filing a petition under 37 CFR § 1.181(a) within two months of the answer. Manual of Patent Examining Procedure (MPEP) § 1207.03, heading IV (8th Ed., Rev. 3, Aug. 2005).

Appellants also submit in the Reply Brief (at 6) that dictionary definitions must give way to the meaning imparted by the specification. We acknowledge the principle. Appellants' citation to the relevant case law appears to be in response to the examiner's noting that a general dictionary defines "coplanar" as lying or occurring in the same plane. Appellants do not, however, explain where, why, or how the specification might impart a definition for "coplanar" that is different from its ordinary and customary meaning. Nor do appellants show that the other ordinary terms in the claims are given special meanings by the instant disclosure. Nor do appellants show that any of the

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terms in controversy may have some special meaning to the artisan.<sup>1</sup> Nor, for that matter, do appellants show that the general dictionary definition of any of the terms in controversy might serve to distinguish over the applied prior art.

We do not consider it error to interpret the claim terms in ways that might result in embracing subject matter beyond the disclosed embodiments. During prosecution before the USPTO, claims are to be given their broadest reasonable interpretation, and the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. See In re Morris, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997); In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989); In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550 (CCPA 1969). Our reviewing court has repeatedly warned against confining the claims to specific embodiments described in the specification. Phillips v. AWH Corp., 415 F.3d 1303, 1323, 75 USPQ2d 1321, 1334 (Fed. Cir. 2005) (en banc). “An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.” In re Zletz, F.2d 893 at 322, 13 USPQ2d at 1322.

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<sup>1</sup> Appellants seem to allege (Brief at 14) that “extending from” has a special meaning in the art, but do not provide evidence in support of the assertion. Arguments of counsel are not evidence. See, e.g., Meitzner v. Mindick, 549 F.2d 775, 782, 193 USPQ 17, 22 (CCPA 1977); In re Pearson, 494 F.2d 1399, 1405, 181 USPQ 641, 646 (CCPA 1974).

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We consider many of appellants' remarks in the briefs not germane to the issue at hand; i.e., whether these claims are met by this reference. We have considered all of appellants' arguments in the briefs but are not persuaded of error in the examiner's claim interpretation or in the finding of anticipation. We sustain the rejection of claims 19 and 23 under 35 U.S.C. § 102 as being anticipated by Hsiao.

#### CONCLUSION

The rejection of claims 19 and 23 under 35 U.S.C. § 102 as being anticipated by Hsiao is affirmed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a). See 37 CFR § 1.136(a)(1)(iv).

AFFIRMED

ERROL A. KRASS  
Administrative Patent Judge

JOSEPH F. RUGGIERO  
Administrative Patent Judge

HOWARD B. BLANKENSHIP  
Administrative Patent Judge

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