

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WEIWEI HUANG
and PHILIP J. SLEZAK

Appeal 2006-2764
Application 10/376,830
Technology Center 1700

Decided: October 29, 2007

Before BRADLEY R. GARRIS, CHUNG K. PAK, and
CATHERINE Q. TIMM, *Administrative Patent Judges*.

GARRIS, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134 from the Examiner's decision rejecting claims 1-47. We have jurisdiction under 35 U.S.C. § 6.

We REVERSE.

Appellants claim a primary electrochemical battery cell having first positive and negative electrodes and a second of at least one of the positive

and negative electrodes, wherein the first and second electrodes are disposed coaxially with respect to each other.

Representative claim 1 reads as follows:

1. A primary electrochemical battery cell comprising a container, a first positive electrode comprising a manganese oxide and a carbon, a first negative electrode comprising zinc, a separator disposed between adjacent positive and negative electrodes, and an electrolyte comprising an aqueous alkaline solution; wherein

the cell comprises a second of at least one of the positive and negative electrodes;

all first and second electrodes are disposed coaxially with respect to each other, with alternating polarities, such that each of the first and second electrodes has at least one surface that interfaces with another of the coaxial electrodes through the separator; and

at least the first positive electrode contains greater than 60 percent but not greater than 80 percent solid materials by volume.

The prior art set forth below is relied upon by the Examiner as evidence of unpatentability:

Urry	5,489,493	Feb. 6, 1996
Treger	2001/0028976 A1	Oct. 11, 2001
Randell	WO 01/99214 A1	Dec. 27, 2001

Claims 1-4, 10, 14-18, 21, 22, 35-38, 40-42, and 45-47 are rejected under 35 U.S.C. § 102(b) as being anticipated by Urry.

The remaining claims on appeal are rejected under 35 U.S.C. § 103(a) as being obvious over Urry in view of Randell and Urry in view of Treger.

All of the above-noted rejections are premised on the Examiner's interpretation of the claim phrase "all first and second electrodes are disposed coaxially with respect to each other" (claim 1). It is the Examiner's position that "the claim recitation 'all first and second electrodes are disposed coaxially with respect to each other' is a broad limitation neither imparting specific spatial orientation nor structural orientation" (Answer 12). In this regard, it is the Examiner's further position that "it can be said that the two cathode positive electrodes 6 [i.e., the left half of electrode 6 and the right half of electrode 6 as shown in Urry's sole figure] and the anode negative electrode 10 are coaxial with respect to an imaginary line (axis) ... [whereby] all electrodes would be disposed coaxially with respect to that line" (*id.*).

During examination, claims are to be given their broadest reasonable interpretation consistent with the specification, and claim language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Am. Academy of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004).

The Examiner's afore-quoted claim interpretation is not a reasonable interpretation consistent with Appellant's Specification. This is because the Specification expressly discloses the following definition:

"Electrodes disposed coaxially with respect to each other" means that the coaxial electrodes are disposed such that each inner electrode is radially completely surrounded by the electrode immediately outside of it; coaxial electrodes may, but do not necessarily, have a common longitudinal axis; spirally wound electrodes are not considered to be disposed coaxially with respect to each other. [Specification 5].

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In light of this definition, one of ordinary skill in this art would not interpret the claim language under consideration as reading on or encompassing the electrode arrangement of Urry as described by the Examiner in the Answer. This is because the definition requires that each inner electrode is radially completely surrounded by the electrode immediately outside of it. The first and second electrodes of Urry, as identified by the Examiner, are not so disposed.

Therefore, we can not sustain the Examiner's § 102 rejection as being anticipated by Urry. We also can not sustain the § 103 rejections since the additionally applied references are not relied upon by the Examiner as supplying the above discussed deficiencies of Urry.

The decision of the Examiner is reversed.

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