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

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SUN KWAN EOM

Appeal 2007-0602
Application 10/842,456
Technology Center 2800

Decided: June 6, 2007

Before KENNETH W. HAIRSTON, HOWARD B. BLANKENSHIP, and MAHSHID D. SAADAT, *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is a decision on appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 15-20, which are all of the claims pending in this application as claims 1-14 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b).

Appellant's invention relates to a flat lamp for emitting light in a backlight assembly used in liquid display devices. According to Appellant (Specification 5), placing the electric field generating means along opposing lateral sides of the channel into which an arc-discharging gas in injected reduces delay time for turning the lamp on despite applying low voltage. An understanding of the invention can be derived from a reading of exemplary independent claim 15, which is reproduced as follows:

15. A liquid crystal display device, comprising:

a LCD panel;

a backlight assembly disposed adjacent to the LCD panel, wherein the backlight unit comprises:

a bottom having a channel uniformly crossing an entire surface thereof;

an arc-discharging gas injected into the channel;

a cover disposed on an upper junction surface of the bottom; and

an electric field generating means for generating an electric field, wherein the electric field generating means is disposed along opposing lateral sides of the channel.

The Examiner relies on the following prior art references:

Tyler	US 6,373,185 B1	Apr. 16, 2002 (filed Jan. 22, 1999)
Paolini	US 6,768,525 B2	Jul. 27, 2004 (filed Dec. 1, 2000)

The rejections as presented by the Examiner are as follows:

1. Claims 15 and 17-19 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Tyler.
2. Claim 20 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Tyler.
3. Claim 16 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Tyler and Paolini.

Rather than reiterate the opposing arguments, reference is made to the Briefs and the Answer for the respective positions of Appellant and the Examiner. Only those arguments actually made by Appellant have been considered in this decision. Arguments which Appellant could have made but chose not to make in the Brief have not been considered (37 C.F.R. § 41.37(c)(1)(vii)).

We affirm.

ISSUE

The issue is whether Appellant has shown that the Examiner erred in rejecting the claims under 35 U.S.C. § 102(e). Appellant's arguments focus on the claimed limitation related to the electric field generating means disposed along opposing lateral sides of the channel (Br. 5-7). Specifically, the issue is:

> whether the electrodes on the upper surface of the dividing walls of the channels in Tyler are the same as the claimed subject matter including the electrodes disposed along lateral sides of the channel.

FINDINGS OF FACT

Appellant's claim 15 requires a channel which is uniformly crossing the surface of the bottom portion of a backlight assembly to be disposed

adjacent an LCD panel. The channel is filled with an arc-discharging gas while an electric field generating means is disposed *along* opposing lateral sides of the channel. Emphasis added.

Tyler discloses a planar gas discharge lamp for backlit displays wherein a planar envelope filled with gas defines an elongated discharge path and includes a pair of electrodes for causing the discharge within the envelope (col. 1, l. 66 through col. 2, l. 4).

The discharge path is described as a serpentine path defined by a plurality of parallel walls while the electrodes extend in alignment with the walls and along the same surface of the envelope (col. 2, ll. 9-13).

As shown in Figure 1 of Tyler, the envelope of lamp 1 is depicted as block 10 with walls 11-14 forming parallel channels 15-22 (col. 3, ll. 12-20). Two electrodes 45 and 46 are arranged alongside the edge of the envelope in an interleaving manner (col. 5, ll. 25-35) or alternatively, could be located internally of the envelope (col. 6, ll. 22-23).

PRINCIPLES OF LAW

1. Scope of claims

Absent an express intent to impart a novel meaning to a claim term, the words take on the ordinary and customary meanings attributed to them by those of ordinary skill in the art. *Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc.*, 334 F.3d 1294, 1298, 67 USPQ2d 1132, 1135-36 (Fed. Cir. 2003). The claim construction analysis begins with the words of the claim. *See Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582, 39 USPQ2d, 1573, 1576 (Fed. Cir. 1996). Claims will be given their broadest reasonable interpretation consistent with the specification, and limitations appearing in the specification are not to be read into the claims. *In re Etter*, 756 F.2d 852, 858, 225 USPQ 1, 5 (Fed. Cir. 1985).

2. Anticipation

A rejection for anticipation requires that the four corners of a single prior art document describe every element of the claimed invention, either expressly or inherently, such that a person of ordinary skill in the art could practice the invention without undue experimentation. *See Atlas Powder Co. v. IRECO Inc.*, 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1947 (Fed. Cir. 1999); *In re Paulsen*, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

ANALYSIS

1. *35 U.S.C. § 102 Rejection*

Appellant's position with respect to the teachings of Tyler is that the prior art electrodes are formed on the top or back surface of the channel walls whereas the claims require the electrodes to be "disposed along opposing lateral sides of the channel" (Br. 6; Reply Br. 2). Determining the scope of the claims by looking at the words recited in the claims, we find that claim 15 merely requires the electrodes to be disposed *along opposing lateral sides* of the channel. The Examiner correctly points out that the claim language does not limit the position of the electric field generating means to any specific part of the channel walls as long as they are along the lateral sides of the channel (Answer 6). As such, the electrodes could be positioned anywhere on the wall from the bottom to the top of the channel walls including the top of the channel walls.

Giving the broadest reasonable interpretation to the claim term "along opposing lateral sides," we find that the electrode arrangement of Tyler reads on the subject matter recited in claim 15. Tyler describes the position of the electrodes as "alongside the edge of the envelope in alignment with

the top of the outer wall 13" which is the same as the recited position of "along opposing lateral sides of the channel."

Contrary to Appellant's arguments that Tyler does not define the term "envelope" (Br. 6), Tyler does describe the envelope as rectangular block 10 which is machined to form four outer walls and a number of internal dividing walls that define the channels (col. 3, ll. 14-20). Therefore, locating the electrodes internally of the envelope (Tyler, col. 6, ll. 22-23) actually allows the electrodes to be positioned inside the channels along the dividing walls.

In view of the analysis above, we find that Tyler prima facie anticipates claim 15 as the reference teaches all the recited features. Additionally, Appellant does not argue claims 17-19 separately from their base claim and thus, allows these claims to fall with claim 15.

2. *35 U.S.C. § 103 Rejection*

With respect to the rejection of the remaining claims, Appellant relies on similar arguments discussed above and merely asserts that Paolini[1] does not cure the deficiencies of Tyler. Accordingly, as Appellant fails to point to any error in the Examiner's position with sufficient particularity, we remain unconvinced by Appellant's arguments that the Examiner erred in rejecting claims 16 and 20 under 35 U.S.C. § 103.

3. *Other arguments addressing prosecution of related applications*

Appellant further argues that the claimed feature requiring the electric field generating means be positioned "along opposing lateral sides of the

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[1] Although the effective date of Paolini is after the foreign priority date claimed by Appellant, absent a showing that a certified translation of the priority document is filed, we do not find any error is the examiner's position.

channel" has been found during the prosecution of other related applications to be distinguishable over Tyler (Br. 4-5; Reply Br. 2). Appellant urges this panel to reverse the Examiner's rejection based on previously prosecuted applications and the resulting grant of U.S. Patents (*id.*).

Appellant is reminded that our decision is limited to the appealed claims that are before this panel. In other words, Appellant's reference to the related applications that were issued as U.S. Patents has no bearing on the merits of this appeal. This is not the same as rejecting previously allowed claims, s*ee MPEP 706.04 (8th edition, Rev. 3, August 2005)*, or "casting doubts" over the previously granted patents since the instant claims before us have not been allowed by the Examiner. The similarities between these claims and those of the issued patents notwithstanding, our decision is independent of and will not directly affect the other applications since this panel has no jurisdiction over the issued patents.

If the decision of this appeal causes any conflicting results, Appellant is reminded that other remedies such as reissue and reexamination are more appropriate and available to resolve the inconsistencies.

CONCLUSION

On the record before us, Appellant has failed to show that the Examiner has erred in rejecting the claims or the rejection is not supported by a legally sufficient basis for holding that Tyler anticipated the claimed subject matter. In view of our analysis above, we sustain the 35 U.S.C. § 102 rejection of claims 15 and 17-19 over Tyler, and the 35 U.S.C. § 103 rejection of claim 20 over Tyler and of claim 16 over Tyler and Paolini.

DECISION

The decision of the Examiner rejecting claims 15 and 17-19 under 35 U.S.C. § 102 and of claims 16 and 20 under 35 U.S.C. § 103 is affirmed.

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

AFFIRMED

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