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Medtronic, Inc. (CRDM)
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MINNEAPOLIS, MN 55432-9924

EXAMINER

SO, ELIZABETH K

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MOHSEN ASKARINYA and ERIK J. HERRMANN

Appeal 2015-000151^{1,2}
Application 13/113,685
Technology Center 3700

Before ANTON W. FETTING, PHILIP J. HOFFMANN, and
KENNETH G. SCHOPFER, *Administrative Patent Judges*.

HOFFMANN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the rejection of claims 1, 2, and 4–16. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

According to Appellants, “[t]he disclosure relates to implantable medical devices and, more particularly, to configurations of implantable

¹ Our decision references Appellants’ Specification (“Spec.,” filed May 23, 2011), Appeal Brief (“Appeal Br.,” filed Mar. 13, 2014), and the Reply Brief (“Reply Br.,” filed Aug. 29, 2014), as well as the Examiner’s Answer (“Answer,” mailed July 2, 2014).

² According to Appellants, Medtronic, Inc. is the real party in interest. Appeal Br. 3.

medical devices.” Spec. ¶ 1. Claim 1 is the only independent claim under appeal. *See* Appeal Br., Claims App. Below, we reproduce claim 1, as representative of the appealed claims.

1. An implantable medical device (IMD) comprising:
a liquid crystal polymer (LCP) housing defining an outer surface of the IMD;
circuitry disposed within the LCP outer housing; and
an electrical feedthrough extending from a first end proximate the circuitry to a second end proximate to the outer surface, wherein the electrical feedthrough defines a major axis extending between the first end and the second end, and
wherein the electrical feedthrough comprises non-uniform width measured in a direction along a plane substantially orthogonal to the major axis.

Id.

REJECTIONS AND PRIOR ART

The Examiner rejects claims 1, 2, 4–9, and 13 under 35 U.S.C. § 102(b) as anticipated by Strother (US 2008/0033500 A1, pub. Feb. 7, 2008).

The Examiner rejects claims 10, 12, and 14–16 under 35 U.S.C. § 103(a) as unpatentable over Strother.

The Examiner rejects claim 11 under 35 U.S.C. § 103(a) as unpatentable over Strother and Edell (US 2002/0198582 A1, pub. Dec. 26, 2002).

See Answer 2–6.

ANALYSIS

With respect to independent claim 1, from which claims 2 and 10–16 depend and which Appellants do not argue separately, Appellants argue that the anticipation rejection is in error because “the explicit teachings of Strother do not support the alternate interpretation that the structure of the receptacle 64 and the associated conductors 84, 86, 88 is a feedthrough[,] and the reliance on that interpretation as set forth in the rejection is erroneous.” Reply Br. 6; *see also id.* at 5–6. We disagree, however, with Appellants.

We acknowledge that Strother refers to “feed-thrus 28” (that are part of a so-called typical implantable device, which is different from the embodiment on which the Examiner relies to reject the claims), and identifies element 64 as a “connector system.” *See id.* at 5–6, referencing Strother ¶¶ 10, 56. Notwithstanding this acknowledgement, Appellants do not persuade us that the Examiner’s finding that connector system 64 teaches the claimed feedthrough is unsupported by a preponderance of the evidence or is unreasonably broad. For example, Appellants do not point to anything, such as a portion of the Specification or the claims, or cite to other evidence, sufficient to persuade us that Strother’s connector system 64 may not teach the claimed feedthrough. Further, we note that connector system 64 appears to function as “an electrical connector used to join two parts of a circuit on opposite sides of something,” consistent with the definition proffered by the Examiner during prosecution of the application, to which Appellants do not object.³

³ *See* Final Office Action mailed Oct. 11, 2013, 2–3.

Thus, based on the foregoing, we sustain the rejection of claim 1. Further, inasmuch as Appellants do not separately argue the rejections of claims 2 and 10–16, we sustain the anticipation and obviousness rejections of these claims.

Appellants separately argue the anticipation rejection of claims 4–9, which depend from claim 1. *See* Appeal Br. 8–9. Specifically, Appellants argue that the rejection of claim 4 is in error because Strother does not disclose the claimed radial projections. *See id.* However, the Examiner’s findings regarding Strother’s teaching the claimed radial projections (i.e., that the curved portion of connector system 64 teaches the claimed projection) is reasonable. *See* Answer 8–9. Further, Appellants do not argue against the Examiner’s finding, and, thus, do not demonstrate that the Examiner’s finding is erroneous. Therefore, we also sustain the anticipation rejection of claims 4–9.

DECISION

We affirm the Examiner’s anticipation and obviousness rejections of claims 1, 2, and 4–16.

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

AFFIRMED