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MCCOY RUSSELL LLP 806 SW BROADWAY SUITE 600 PORTLAND, OR 97205-3335			GRANT, ROBERT J	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte BRIAN D. RUTKOWSKI and BRIAN C. MOORHEAD

Appeal 2017-000594
Application 13/376,569¹
Technology Center 2800

Before MAHSHID D. SAADAT, CARL L. SILVERMAN, and
NORMAN H. BEAMER, *Administrative Patent Judges*.

SILVERMAN, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–20, which are the only claims pending. We have jurisdiction under 35 U.S.C. § 6(b). A Hearing was held on March 21, 2018.

We reverse.

¹ The real party in interest is identified as A123 Systems LLC. Appeal Br. 3.

STATEMENT OF THE CASE

The invention relates to communicating a state of a battery to a vehicle controller. Abstract, Figs. 5–7. Claims 1 and 8, reproduced below, are representative of the subject matter on appeal (disputed limitations emphasized):

1. A method for providing notice of battery pack availability, comprising:
 - sourcing or sinking an amount of current from a battery pack;
 - providing an indication of an available current limit for a battery pack; and
 - providing an indication of a capability of said battery pack to sink or source the amount of current at said available current limit, and where the capability of said battery pack to sink or source the amount of current is not a state of battery charge.*

Appeal Br. 46 (Claims App'x).

8. A method for providing notice of battery pack availability, comprising:
 - sensing current entering or exiting a battery pack;
 - providing an indication of an available current limit for a battery pack in response to said sensed current, where the available current limit is based on a ratio of filtered battery pack current and a continuous discharge limit of the battery pack; and
 - providing an indication of a capability of said battery pack to sink or source the sensed amount of current at said available current limit, said indication of said capability of said battery pack to sink the sensed amount of current reduced as a state of charge of said battery pack increases, said indication of said capability of said battery pack to source said amount of current increased as a state of charge of said battery pack increases.*

Id. at 47–48.

THE REJECTIONS

Claims 1–5, 7, 15, and 17–20 are rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Shibutani et al. (US 6,252,377 B1; iss. June 26, 2001) (“Shibutani”), Snyder et al. (US 2009/0212626 A1; pub. August 27, 2009) (“Snyder”), and Kawahara et al. (US 2007/0145954 A1; pub. June 28, 2007) (“Kawahara”). Final Act. 2–8.

Claims 8, 10, and 12–14 are rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Shibutani and Snyder. Final Act. 8–11.

Claims 6, 9, and 16 are rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Shibutani, Snyder, and Wu (US2007/0080662 A1; pub. April 12, 2007) (“Wu”). Final Act. 11–13.

Claim 11 is rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Shibutani, Snyder, and Kawahara. Final Act. 13–14.

ANALYSIS

Appellants argue the Examiner errs in finding the combination of Shibutani, Snyder, and Kawahara teaches the claim 1 limitation *providing an indication of a capability of said battery pack to sink or source the amount of current at said available current limit, and where the capability of said battery pack to sink or source the amount of current is not a state of battery charge* (also referred to as the disputed limitation). Appeal Br. 7–15; Reply Br. 2–4.

The Examiner finds Shibutani teaches claim 1, except for the disputed limitation. Final Act. 2–3 (citing Snyder 7:59–8:7). The Examiner finds Snyder teaches “providing an indication of an available current limit for a battery pack.” *Id.* at 3 (citing Snyder ¶ 208). The Examiner finds Kawahara

teaches “where the capability of said battery pack to sink or source the amount of current is not a state of battery charge.” *Id.* at 3 (citing Kawahara ¶ 15). *See also* Ans. 2–9.

Appellants argue, *inter alia*, Shibutani describes techniques for determining state of battery charge, but does not describe an indication of capability of the battery pack because state of battery charge is not the claimed “capability of . . .” Appeal Br. 16 (citing Shibutani 7:58–8:7). Appellants additionally argue the limitation recites “and where the capability of said battery pack to sink or source the amount of current is not a state of battery charge.” *Id.*

Appellants argue the Examiner finds Snyder describes an available current for a battery pack and is not cited by the Examiner as teaching providing an indication of a capability of the battery pack to sink or source the amount of current. *Id.* (citing Final Act. 3; Snyder ¶ 208). Appellants argue the Examiner errs in the findings regarding Kawahara because Kawahara describes maximum available charge and discharge powers or maximum charge and discharge currents as measured by a calculation unit, but, “these parameters are not based on an amount of current sourced from the battery pack at the available current limit as required by claim 1.” *Id.* at 17.

Claim terms in a patent application are given the broadest reasonable interpretation consistent with the Specification, as understood by one of ordinary skill in the art. *In re Crish*, 393 F.3d 1253, 1256 (Fed. Cir. 2004). *See also In re Smith International, Inc.*, 871 F.3d 1375, at 1383(Fed. Cir. 2017):

The correct inquiry in giving a patent claim term its broadest reasonable interpretation in light of the specification is not whether the specification proscribes or precludes some broad reading of the claim term adopted by the examiner, and it is not simply an interpretation that is not inconsistent with the specification; it is an interpretation that corresponds with what and how the inventor describes his invention in the specification, *i.e.*, an interpretation that is consistent with the specification.

Here, the disputed limitation “capability . . .” is described in the Specification as a buffer size and buffer signal. *See, for example*, Spec. ¶¶ 43–46, Figs. 5–6). The Specification further states “[n]ote that the battery buffer or capability signal does not represent the state of battery charge.”² *Id.* at ¶ 43.

Based on the record before us, we conclude a broad, but reasonable, interpretation of “capability . . .” requires a buffer. With this interpretation, we do not see where the Examiner identifies such “capability” in the cited references and we are persuaded by Appellants’ arguments that none of the references teaches the claimed “capability.”

In view of the above, we do not sustain the rejection of claim 1, and independent claim 15, which also recites the disputed limitation. We also do not sustain the rejection of dependent claims 2–7. *Cf. In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992) (“[D]ependent claims are nonobvious if the independent claims from which they depend are nonobvious . . .”).

Because our decision with regard to the disputed limitation is dispositive of

² Further, in claim 1, there is an additional recitation that capability is “not a state of battery charge.”

Appeal 2017-000594
Application 13/376,569

the rejection of these claims, we do not address additional arguments raised by Appellants.

Independent claim 8 recites *providing an indication of a capability of said battery pack to sink or source the sensed amount of current at said available current limit*, but, unlike claim 1, this claim does not include the recitation “not a state of battery charge.”

As discussed *supra* regarding claim 1, none of the references teaches or suggests the claim limitation “capability” as broadly, but reasonably interpreted. Therefore, for the same reasons discussed regarding claim 1, we do not sustain the rejection of claim 8, and dependent claims 9–14.

Because our decision with regard to the disputed limitation is dispositive of the rejection of these claims, we do not address additional arguments raised by Appellants.

DECISION

We reverse the Examiner’s decision rejecting claims 1–20.

REVERSED