

No. 2023-1715

IN THE
United States Court of Appeals
FOR THE FEDERAL CIRCUIT

JIAXING SUPER LIGHTING ELECTRIC APPLIANCE, CO., LTD., OBERT, INC.,
Plaintiffs-Appellees,

v.

CH LIGHTING TECHNOLOGY CO., LTD., ELLIOTT ELECTRIC SUPPLY, INC.,
SHAOXING RUISING LIGHTING CO., LTD.,
Defendants-Appellants.

On Appeal from the United States District Court
for the Western District of Texas
No. 6:20-cv-00018, Hon. Alan D. Albright

OPENING BRIEF FOR DEFENDANTS-APPELLANTS
CH LIGHTING TECHNOLOGY CO., LTD., ELLIOTT ELECTRIC
SUPPLY, INC., AND SHAOXING RUISING LIGHTING CO., LTD.

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a prior-art reference disclosing the same system, because it used a measure of impedance, rather than a pulse, to test installation before activating the main circuit. But Super then accused CH products with LT2600 chips even though they relied on the same detection of impedance.

Super cannot have it both ways. A “‘patent may not, like a nose of wax, be twisted one way to avoid [invalidity] and another to find infringement.’” *Comm-Scope Techs. LLC v. Dali Wireless Inc.*, 10 F.4th 1289, 1299 (Fed. Cir. 2021).

A. Ono Anticipates Claim 1 of the '140 Patent

Prior art anticipates under § 102(a) when “every limitation is found either expressly or inherently in a single prior art reference.” *Celeritas Techs., Ltd. v. Rockwell Int’l Corp.*, 150 F.3d 1354, 1361 (Fed. Cir. 1998). The parties did not dispute that Ono discloses most of claim 1’s limitations: a pulse generating circuit, a switch circuit, an installation detection circuit that generates power only during proper installation, and a sampling signal that identifies whether the lamp is properly installed. *See pp. 17-18, supra.*

Ono also clearly discloses the single limitation Super contested: “pulse signals [that] control turning on and off of the switch circuit.” Appx189(59:6-7); Appx10221(90:15-92:13). Ono discloses a “signal output circuit” that “outputs a voltage signal” such as a “rectangular pulse”—*i.e.*, a pulse signal. Appx10014(¶47). That pulse signal then controls the switch circuit: A “first determination circuit”

performs a “determination process on the basis of the voltage detected,” and the result of that determination process acts as a “signal for switching the switch” from “the ON state to the OFF state” if the lamp is not properly installed. Appx10013-10017(¶¶42, 44, 61).

Confronted by that clear disclosure, Super sought to rewrite both Ono and claim 1. Super’s expert, Dr. Phinney, testified that Ono practiced the “old way with respect to shock protection,” because it “first check[s]” whether “installation is proper” and *then* turns on the switch that activates the light. Appx10221 (90:13-24, 91:20-22). According to Dr. Phinney, claim 1 instead “goes right ahead and turns on the light first and *then* determines if there’s a proper installation.” Appx10221 (90:23-91:5) (emphasis added). Dr. Phinney also urged that Ono controlled the switch not with pulses of voltage (*i.e.*, pulse signals), but with a “detection” of “impedance,” which was a “response” to the pulse signal that the system obtained before activating the switch. Appx10221 (91:6-19).

Dr. Phinney’s testimony contradicts Ono and the ’140 patent. Ono does not mandate detecting proper installation *before* switching the light on. It discloses switching “from the ON to the OFF state . . . when, in the first determination process, it has been determined that there is an open state,” *i.e.*, improper installation. Appx10013 (¶42). In other words, Ono can first activate the main circuit—switch it to “ON”—and later switch it “OFF” if it determines the light is not properly installed.

Nor does claim 1 of the '140 patent mandate any specific order of operations, much less the one Dr. Phinney urged. Upon detecting that “the LED tube lamp is not properly installed,” the installation detection circuit can control “the switch circuit to *remain* in an off state.” Appx189(59:11-14) (emphasis added). That language contradicts Dr. Phinney’s suggestion that the invention necessarily “turns on the light first” and only then determines whether installation is proper or improper. Appx10221(90:23-91:5). The switch cannot “*remain* in an *off* state” upon detecting improper installation if it is already in an *on* state. Claim 1 thus encompasses a system that turns on the light only *after* detecting proper installation—precisely what Dr. Phinney described as the “old way” disclosed in Ono. Appx10221(90:13-91:22).

Claim 1 also cannot be distinguished from Ono on the ground that Ono detects impedance. Claim 1 recites an “installation detection circuit” that detects “during at least one of the one or more pulse signals whether the LED tube lamp is properly installed.” Appx188-189(58:66-59:4). That language contemplates that pulses will produce a detection “response” that identifies whether installation is proper. Appx10221(91:6-19). Claim 1 does not preclude that response from being a measure of impedance. As Super argued regarding infringement, claim 1 “say[s] nothing about what electrical property needs to be measured.” Appx21611. It thus encompasses an “installation detection circuit” that uses a measure of impedance to deter-

mine “whether the LED tube lamp is properly installed,” Appx188-189(58:66-59:4)—precisely what Dr. Phinney described Ono as reciting, Appx10221 (91:6-19).

CH raised the contradiction between Dr. Phinney’s testimony and claim 1’s plain language, Appx20018-20020, but the district court never addressed it. It responded that the jury was “free” to “adopt Dr. Phinney’s description of Ono over Dr. Zane’s.” Appx57. But Dr. Phinney was not free “to vary or contradict the claim language” by attributing to the ’140 patent an order of operations that claim 1 refuted. *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1584 (Fed. Cir. 1996); *see Phillips v. AWH Corp.*, 415 F.3d 1303, 1318 (Fed. Cir. 2005) (“[A] court should discount any expert testimony ‘that is clearly at odds with the claim construction mandated by the claims themselves’”). Without varying claim 1’s language, Dr. Phinney had no basis for distinguishing Ono. JMOL on claim 1 is warranted. A damages retrial is required on all other claims. *See* p. 47, n.9, *supra*.

B. Alternatively, Products with LT2600 Chips Do Not Infringe

Having distinguished Ono as disclosing an impedance-based shock-prevention system to avoid invalidity, Super could not accuse other impedance-based systems of infringement. But Super did precisely that for CH products with LT2600 chips, which practice a “grid *impedance* measured algorithm.” Appx10034 (emphasis added). Super cannot have it both ways. If its evidence sufficed to avoid

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