

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PRECISION POWER, LLC,
Petitioner,

v.

POWERTEC SOLUTIONS INTERNATIONAL, LLC,
Patent Owner.

PGR2021-00070
Patent 10,714,954 B2

Before BARBARA A. PARVIS, TERRENCE W. McMILLIN, and
ELIZABETH M. ROESEL, *Administrative Patent Judges*.

ROESEL, *Administrative Patent Judge*.

DECISION
Granting Institution of Post-Grant Review
35 U.S.C. § 324

I. INTRODUCTION

A. Background and Summary

Precision Power, LLC (“Petitioner”) filed a Petition (Paper 2, “Pet.”) seeking post-grant review of claims 1–16 (the “challenged claims”) of U.S. Patent No. 10,714,954 B2 (Ex. 1001, “the ’954 Patent”). PowerTec Solutions International, LLC (“Patent Owner”) did not file a preliminary response.

Exercising the authority delegated to the Board under 35 U.S.C. § 324 and 37 C.F.R. § 42.4(a), we may not institute a post-grant review unless “the information presented in the petition . . . , if such information is not rebutted, would demonstrate that it is more likely than not that at least 1 of the claims challenged in the petition is unpatentable.” 35 U.S.C. § 324(a) (2018). We determine that the Petition meets the “more likely than not” standard with respect to at least one of the challenged claims. Therefore, we grant institution of a post-grant review.

Our findings and conclusions below are based on the record developed thus far. This is not a final decision as to the patentability of any challenged claim. Any final decision will be based on the full record developed during trial.

B. Related Matter

The parties identify the following federal district court case as a related matter: *PowerTec Solutions International, LLC v. Precision Power, LLC*, No. 3-20-cv-00969 (M.D. Tenn.). Pet. 1; Paper 4, 2.

C. The ’954 Patent (Ex. 1001)

The ’954 Patent is titled “Portable switching power supply with attachable battery pack and enclosure.” Ex. 1001, code (54). Disclosed is a

portable switching direct current voltage (Vdc) power supply with attachable lithium (Li) ion battery packs for powering Customer Premises Equipment (CPE) telecommunication devices. *Id.* at 1:19–29, 2:25–33, 6:21–30. The switching Vdc power supply can operate as a standalone power supply or, when Li ion battery packs are connected, as an “Uninterruptable Power Supply” (UPS) that provides standby battery backup in the event of a power failure. *Id.*

Figures 1 and 2 of the '954 Patent are reproduced below.

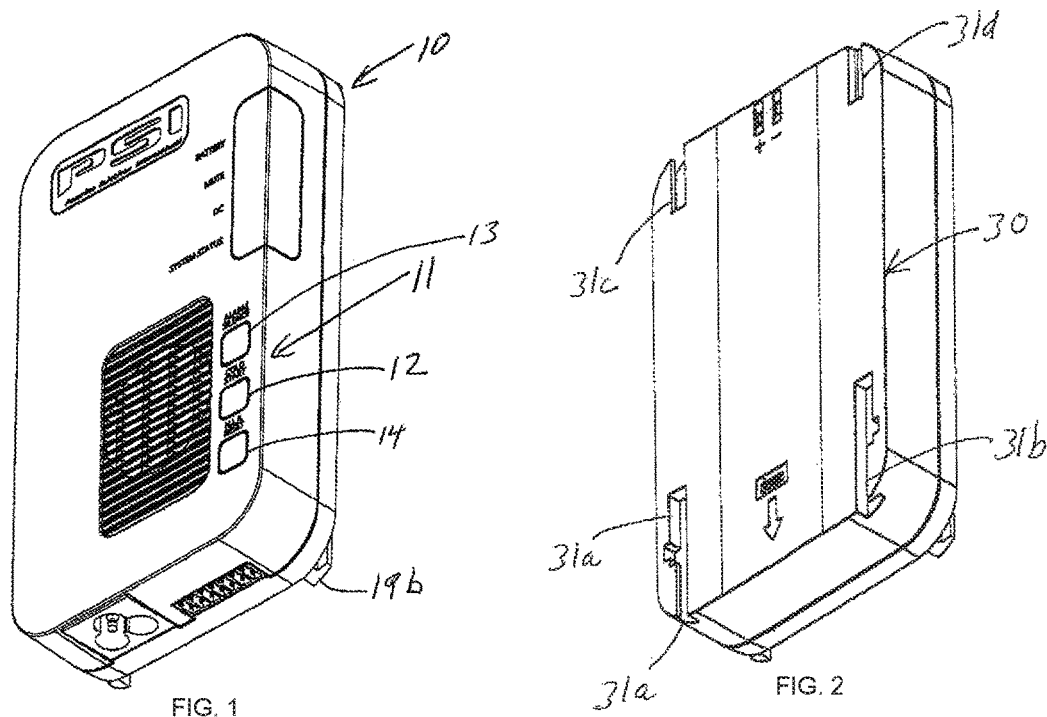


Figure 1 shows switching Vdc power supply 10, and Figure 2 shows Li ion battery pack 30. Ex. 1001, 2:50–53, 2:62–63.

Power supply 10 has on its rear side protruding spring loaded terminals 17a and 17b (not shown in Figure 1), which engage and electrically connect to contact terminals 18a and 18b (shown but not labeled in Figure 2) on the front side of battery pack 30. Ex. 1001, 4:16–29, Fig. 1D. Likewise, battery

pack 30 has on its rear side terminals 17a, 17b to connect to the next battery pack, if installed. *Id.* at 4:16–29, Fig. 2D.

Connector feet 19a, 19b, 19c, and 19d are located on the rear portion of power supply 10 and on the rear portion of battery pack 30. Ex. 1001, 4:41–48, Figs. 1D, 2D. Feet 19a, 19b, 19c, and 19d connect to grooves 31a, 31b, 31c, and 31d located on the front portion of battery pack 30. *Id.* The feet and grooves permit battery pack 30 to be attached to power supply 10 and battery packs 30 to be attached to one another. *Id.*

Figures 3 and 4 of the '954 Patent are reproduced below.

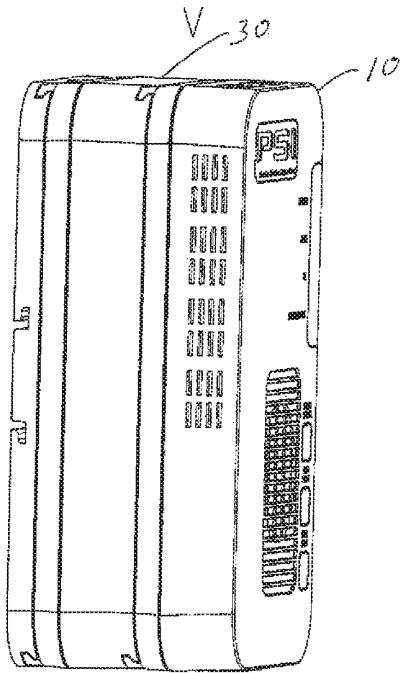


FIG. 3

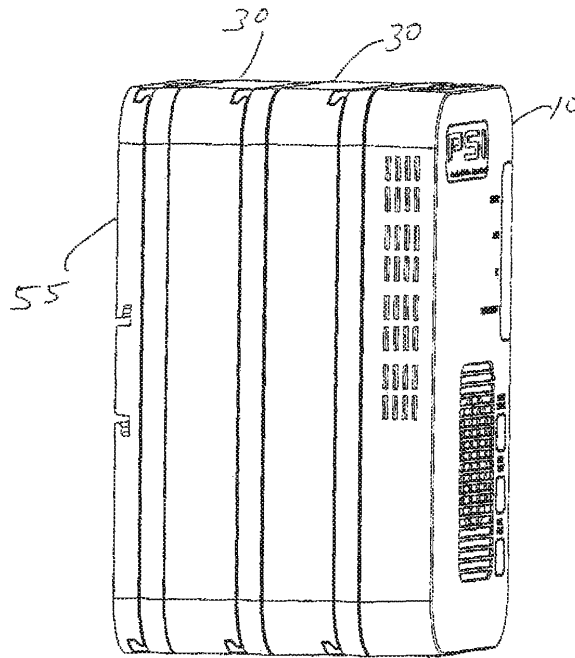


FIG. 4

Figure 3 shows a switching Vdc power supply with a single attached Li ion battery pack, and Figure 4 shows a switching Vdc power supply with multiple attached Li ion battery packs (stacked battery packs). Ex. 1001, 3:2–5, 3:9–12, 4:30–40.

D. Illustrative Claim

Petitioner challenges claims 1–16 (all claims) of the '954 Patent.
Claim 9 is reproduced below with bracketed paragraph designations added.

9. A modular external battery pack, comprising:

[a] at least one battery;

[b] a housing containing said at least one battery, said housing including a first face and a second face opposite said first face;

[c] said housing including, on said first face, a first electrical connector, and at least one mechanical connector of a first type;

[d] said housing including, on said second face, a second electrical connector, and at least one mechanical connector of a second type different from said first type, and said at least one mechanical connector of said first type configured to mechanically interlock with a mechanical connector of said second type.

Ex. 1001, 8:24–37.

E. Asserted Grounds and Evidence

Petitioner asserts the following grounds of unpatentability:

Claims Challenged	35 U.S.C. §	Reference(s)/Basis
9, 11, 13	102(a)	Shen ¹
10, 12, 13	103	Shen, Lemelman ²
1, 3–8, 14, 15	103	Chang, ³ Shen
1, 2, 4, 5, 8	103	Chang, Shen, Lemelman

¹ Ex. 1005, US 8,665,599 B2, issued March 4, 2014.

² Ex. 1007, US 2013/0069583 A1, published March 21, 2013.

³ Ex. 1004, US 2005/0052085 A1, published March 10, 2005.

Claims Challenged	35 U.S.C. §	Reference(s)/Basis
16	103	Chan, Shen, Krieger ⁴
3–8, 14–16	112(b)	Indefiniteness

Petitioner relies on a Declaration of Mark Ehsani, Ph.D. Ex. 1003.

II. ANALYSIS

A. Eligibility for Post-Grant Review

The earliest priority date claimed for the application from which the '954 Patent issued is September 24, 2014. Ex. 1001, code (60), 1:8–15. Because this date is after March 16, 2013, the '954 Patent is eligible for post-grant review. The '954 Patent issued on July 14, 2020. The Petition was filed on March 22, 2021, which is within nine months of issuance of the '954 Patent. The Petition satisfies the requirements for post-grant review.

B. Principles of Law

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. Inc., v. Union Oil Co.*, 814 F.2d 628, 631 (Fed. Cir. 1987).

A patent claim is unpatentable under 35 U.S.C. § 103 if the differences between the claimed subject matter and the prior art are such that the subject matter, as a whole, would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved based on underlying factual determinations including: (1) the scope and content of the prior art; (2) any

⁴ Ex. 1008, US 2007/0273326 A1, published November 29, 2007.

differences between the claimed subject matter and the prior art; (3) the level of ordinary skill in the art; and (4) when presented, objective evidence of nonobviousness, i.e., secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966).

Additionally, the obviousness inquiry typically requires an analysis of “whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue.” *KSR*, 550 U.S. at 418 (citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) (requiring “articulated reasoning with some rational underpinning to support the legal conclusion of obviousness”)). A petitioner cannot satisfy its burden of proving obviousness by employing “mere conclusory statements,” but “must instead articulate specific reasoning, based on evidence of record, to support the legal conclusion of obviousness.” *In re Magnum Oil Tools Int’l, Ltd.*, 829 F.3d 1364, 1380 (Fed. Cir. 2016).

“The Patent Act requires that a patent specification ‘conclude with one or more claims *particularly pointing out and distinctly claiming* the subject matter which the applicant regards as [the] invention.’” *Nautilus, Inc. v. Biosig Instruments, Inc.*, 572 U.S. 898, 901 (2014) (emphasis and alteration in original) (quoting 35 U.S.C. § 112, para. 2).⁵ Patent claims are indefinite if they “fail to inform, with reasonable certainty, those skilled in the art about the scope of the invention.” *Id.*

C. Level of Ordinary Skill in the Art

With regard to the level of ordinary skill in the art, Petitioner contends a “POSITA in the field of the ’954 patent as of its priority date would have

⁵ The America Invents Act (AIA), Pub. L. No. 112-29, 125 Stat. 284, effective September 16, 2012, designated § 112, paragraph 2 as § 112(b).

had a bachelor's degree in electrical engineering or two years of uninterruptible power supply ("UPS") design or battery system design."

Pet. 9.

Petitioner's proposal is consistent with the technology described in the '954 Patent and the cited prior art. For purposes of determining whether Petitioner has demonstrated it is more likely than not that at least one of the challenged claims is unpatentable, we adopt Petitioner's proposed level of skill in the art.

D. Claim Construction

In a post-grant review, we apply the same claim construction standard as would be used by a district court to construe a claim in a civil action involving the validity or infringement of a patent. 37 C.F.R. § 42.200(b) (2021). Under that standard, claim terms are given their ordinary and customary meaning, as would have been understood by a person of ordinary skill in the art at the time of the invention, in light of the language of the claims, the specification, and the prosecution history of record. *Id.*; *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–19 (Fed. Cir. 2005) (en banc); *Thorner v. Sony Comput. Entm't Am. LLC*, 669 F.3d 1362, 1365–66 (Fed. Cir. 2012).

The Petition states, "Petitioner is currently unaware of any claim constructions that have been made in any civil action. Further, Petitioner does not believe any specific constructions are required at this time."

Pet. 10.

We determine that no claim term requires express construction for purposes of this Decision. *Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999) ("[O]nly those terms need be construed that are in controversy, and only to the extent necessary to resolve the

controversy.”); see also *Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) (applying *Vivid Techs.* in the context of an AIA proceeding).

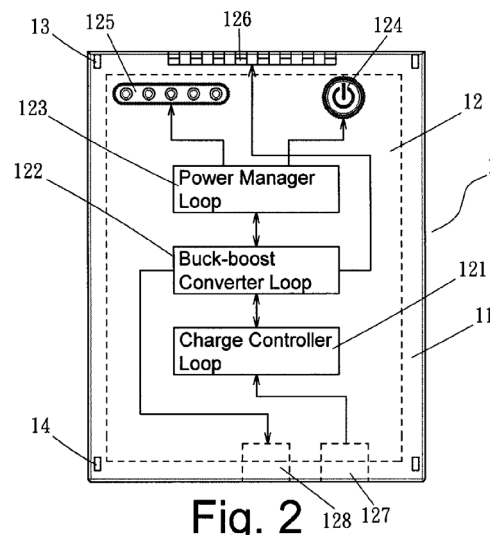
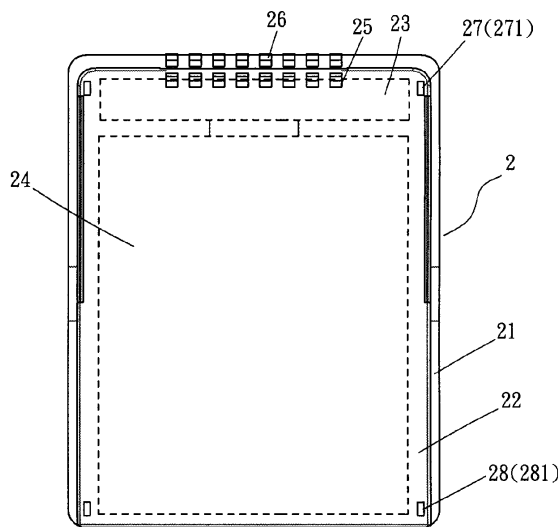
E. Petitioner's Anticipation Ground

Petitioner contends that Shen anticipates claims 9, 11, and 13. We provide an overview of Shen before turning to Petitioner's contentions. As noted previously, Patent Owner did not submit a preliminary response.

1. *Shen* (Ex. 1005)

Shen is titled “Portable external power-supplying device.” Ex. 1005, code (54). Shen relates to an “external power supply for consumer electronics, and more particularly, to a power-supplying device adaptive to connect a portable electronic device and act as a backup power source that provides a variable power capacity.” *Id.* at 1:6–11.

Figures 1 and 2 of Shen are reproduced below.



Shen Figure 1 shows individual battery unit 2, and Figure 2 shows power control module 1. Ex. 1005, 2:11–14, 2:36–39. Power control module 1 includes enclosure 11, circuit board 12, positioning hole 13, fixing hole 14,

and first port 126. *Id.* at 2:40–47. Shen discloses multiple battery units 2, 3, 4, and 5. *Id.* at 2:65–67. Each battery unit includes enclosure 21, accommodating recess 22, controller 23, cell 24, second port 25, third port 26, positioning pin 27, retaining hook 28, positioning hole 271, and fixing hole 281. *Id.* at 2:65–3:11. Second port 25 faces accommodating recess 22, and third port 26 is located at a side of enclosure 21. *Id.* at 3:3–5.

Positioning pin 27 and retaining hook 28 are located in accommodating recess 22, and their corresponding holes 271 and 281 are located in the back of each individual battery unit. *Id.* at 3:6–11.

Figures 3 and 4 of Shen are reproduced below.

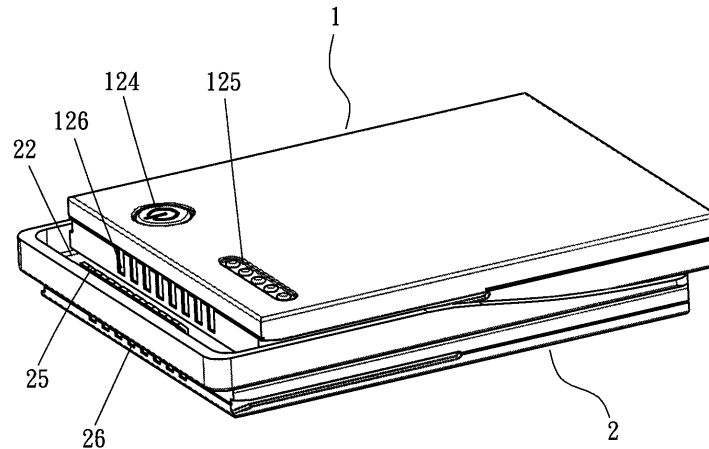


Fig. 3

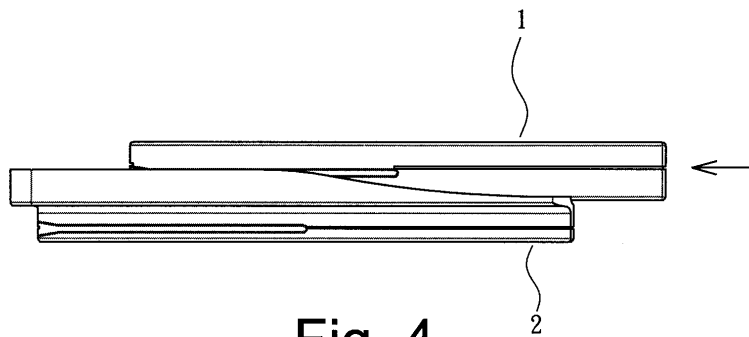


Fig. 4

Shen Figures 3 and 4 show power control module 1 and individual battery unit 2 being assembled. Ex. 1005, 2:15–18, 3:12–15. Shen discloses that power control module 1 “slides into” accommodating recess 22 of enclosure 21 such that first port 126 of power control module 1 “gets electrically connected to” second port 25 of individual battery unit 2, and “at the same time,” positioning hole 13 and fixing hole 14 of power control module 1 “get engaged with” positioning pin 27 and retaining hook 28 of individual battery unit 2, respectively. *Id.* at 3:12–21.

Figure 5 of Shen is reproduced below.

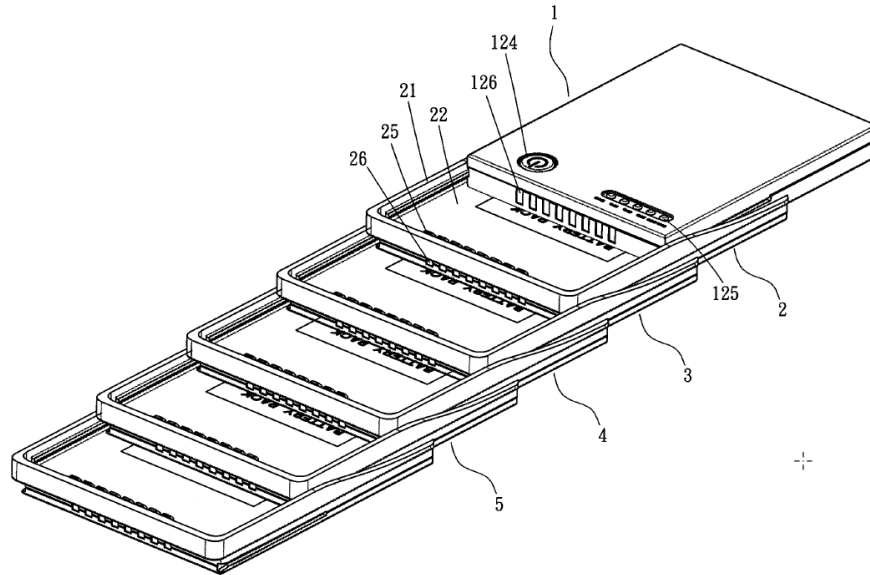


Figure 5 shows power control module 1 and individual battery units 2, 3, 4, and 5 being assembled in a "slide-in operation." Ex. 1005, 2:19–20, 3:22–33. Shen discloses that, when the individual battery units are assembled, "second port 25 of one battery unit [is] electrically connected to and positioned by the third port 26 of another battery unit." *Id.* at 3:27–28.

An alternative embodiment is shown in Figures 8–10, which are reproduced below.

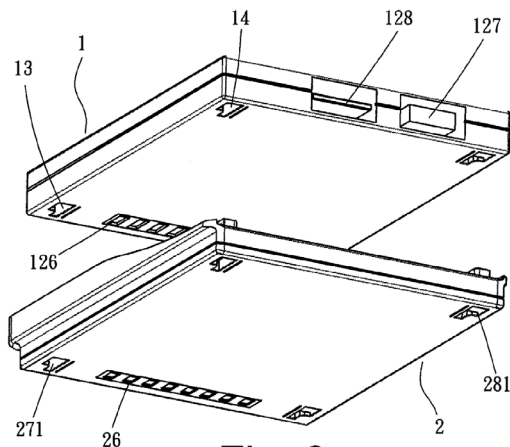


Fig. 8

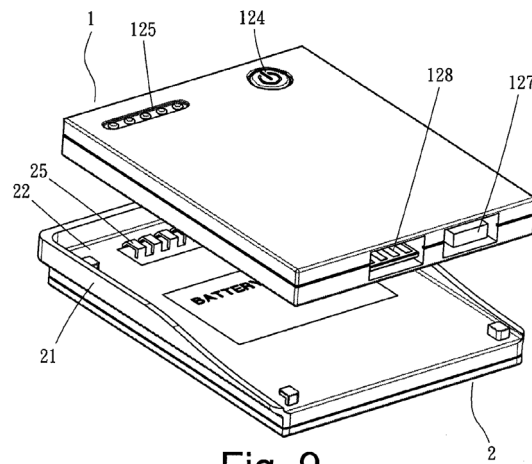


Fig. 9

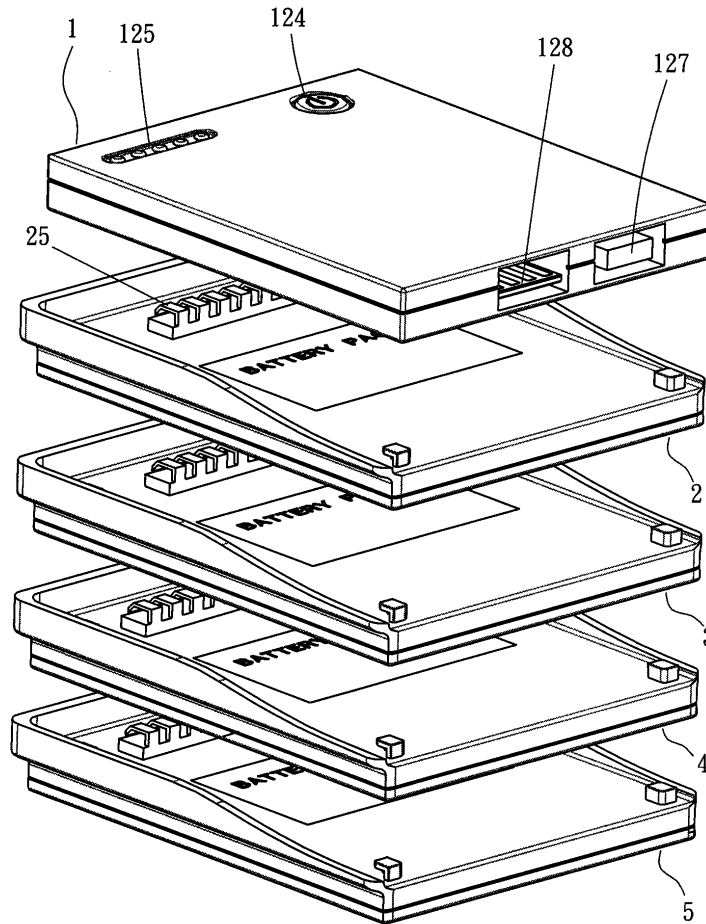


Fig. 10

Shen Figures 8 and 9 show power control module 1 to be stacked with individual battery unit 2, and Figure 10 shows power control module 1 to be stacked with individual battery units 2, 3, 4, and 5. Ex. 1005, 2:26–32, 3:37–45. In the embodiment shown in Figures 8–10, first port 126 and third port 26 are located at the backs of their enclosures 11, 21, respectively. *Id.* at 3:37–40. In this embodiment, the user can assemble power control module 1 and individual battery unit 2 and/or additional battery units 3, 4, and 5 through a “stacking operation” instead of a “slide-in operation.” *Id.* at 3:40–45.

2. *Claim 9*

a) *Preamble*

Petitioner contends that Shen discloses a “modular external battery pack,” as recited in the preamble of claim 9. Pet. 25. Petitioner asserts that Shen discloses multiple modular battery packs 2, 3, 4, and 5, which Petitioner contends are external to power control module 1. *Id.* (citing Ex. 1005, 2:36–39, 2:65–3:45, Figs. 1–10).

We find that, for purposes of institution, Petitioner’s contention is supported by Shen and Petitioner shows sufficiently that Shen discloses the preamble of claim 9.

b) *Element 9a*

Petitioner contends that Shen discloses “at least one battery,” as recited in claim element 9a. Pet. 25. Petitioner asserts that Shen discloses that each of individual battery units 2, 3, 4, and 5 have battery cell 24. *Id.* (citing Ex. 1005, 2:65–3:3).

We find that, for purposes of institution, Petitioner’s contention is supported by Shen and Petitioner shows sufficiently that Shen discloses claim element 9a.

c) *Element 9b*

Petitioner contends that Shen discloses “a housing containing said at least one battery, said housing including a first face and a second face opposite said first face,” as recited in claim element 9b. Pet. 26–27. Petitioner asserts that Shen discloses that each of individual battery units 2, 3, 4, and 5 have enclosure 21 containing battery cell 24 and that enclosure 21 corresponds to the recited “housing.” Pet. 26 (citing Ex. 1005, 3:3–21, Fig. 1). Petitioner identifies the recited opposing first and second

faces as the front and back faces of enclosure 21 shown in Shen Figures 8 and 9. Pet. 26–27 (providing annotation of Shen Figures 8 and 9 identifying first face and second face, respectively).

We find that, for purposes of institution, Petitioner’s contention is supported by Shen and Petitioner shows sufficiently that Shen discloses claim element 9b.

d) Element 9c

Petitioner contends that Shen discloses “said housing including, on said first face, a first electrical connector, and at least one mechanical connector of a first type,” as recited in claim element 9c. Pet. 27–28. Petitioner asserts that Shen discloses that the housing of battery unit 2 includes, on its first face, a first electrical connector (i.e., third port 26) and at least one mechanical connector of a first type (i.e., positioning hole 271 and/or fixing hole 281). *Id.* (citing Ex. 1005, 3:8–11 and providing annotation of Shen Figure 8 identifying “first face”). Petitioner asserts that Shen’s positioning hole 271 and/or fixing hole 281 are “mechanical connectors,” as claimed, relying on Shen’s disclosure that they are provided on “[e]ach of the individual battery units 2, 3, 4, 5” to “correspond[] to [a] positioning pin 27 and [a] retaining hook 28 on another [] individual battery unit.” Pet. 28 (alterations in original) (citing Ex. 1005, 3:8–11, Figs. 1, 2, and 8–10).⁶

⁶ We note that Shen Figure 2 shows power control module 1, not battery unit 2, and does not directly support Petitioner’s contention for claim element 9c. We also note that, in the embodiment of Shen Figure 1, “third port 26 is located at a side of the enclosure 21” (Ex. 1005, 3:3–5), not on a first face of the housing, as asserted by Petitioner. Nevertheless, we find that Petitioner’s contention regarding “a first electrical connector” in claim element 9c is adequately supported by Shen’s third port 26, as shown and

We find that, for purposes of institution, Petitioner's contention is supported by Shen and Petitioner shows sufficiently that Shen discloses claim element 9c.

e) Element 9d

Petitioner contends that Shen discloses “said housing including, on said second face, a second electrical connector, and at least one mechanical connector of a second type different from said first type, and said at least one mechanical connector of said first type configured to mechanically interlock with a mechanical connector of said second type,” as recited in claim element 9d. Pet. 28–30. Petitioner asserts that Shen discloses that the housing of battery unit 2 includes, on its second face, a second electrical connector (i.e., second port 25) and at least one mechanical connector of a second type (i.e., retaining hook 28 and/or positioning pin 27) different from the mechanical connectors of the first type (i.e., positioning hole 271 and/or fixing hole 281). Pet. 28–29 (providing annotation of Shen Figure 9 identifying “second face”). Petitioner contends that, in Shen, the mechanical connector of the second type (i.e., retaining hook 28 and/or positioning pin 27) is configured to mechanically interlock with the mechanical connector of the first type (i.e., positioning hole 271 and/or fixing hole 281), relying on Shen's disclosure that “[e]ach of the individual battery units 2, 3, 4, 5 has its back provided with a positioning hole 271 and a fixing hole 281 corresponding to the positioning pin 27 and the retaining hook 28 on another

described in connection with the stacking embodiment of Figures 8–10. *Id.* at 3:37–45.

said individual battery unit, respectively.” Pet. 29–30 (citing Ex. 1005, 3:8–11, Figs. 1, 2, 8–10).⁷

We find that, for purposes of institution, Petitioner’s contention is supported by Shen and Petitioner shows sufficiently that Shen discloses claim element 9d.

f) Conclusion

We determine that, for purposes of institution, Petitioner shows sufficiently that Shen discloses all elements of claim 9 of the ’954 Patent.

3. Claim 11

Claim 11 depends from claim 9 and recites: “wherein said first electrical connector is of a first type and said second electrical connector is of a second type different from said first type, and said first type of electrical connector is configured to mate with an electrical connector of said second type.” Ex. 1001, 8:40–44. Petitioner contends that Shen discloses the limitation of claim 11. Pet. 30–32. Petitioner asserts that Shen Figures 8 and 9 show that the first electrical connector (i.e., third port 26) is of a first type and the second electrical connector (i.e., second port 25) is of a second type, and that the first and second electrical connectors are configured to mate with one another. Pet. 30. More specifically, Petitioner asserts that

⁷ We note that Shen Figure 2 shows power control module 1, not battery unit 2, and does not directly support Petitioner’s contention for claim element 9d. We also note that, in the embodiment of Shen Figure 1, “second port 25 faces the accommodating recess 22 of the enclosure 21” (Ex. 1005, 3:3–5), and it is unclear from Shen Figures 1, 3, and 5 whether second port 25 is on a second face of the housing, as asserted by Petitioner. Nevertheless, we find that Petitioner’s contention regarding “a second electrical connector” in claim element 9d is adequately supported by Shen’s second port 25, as shown in Figures 8–10.

Shen's third port 26 and second port 25 are different types of electrical connectors "because the third port 26 is generally flush with the first face of the battery unit 2, while the second port 25 extends up from the second face of the battery unit 2 to facilitate mating between the first and second electrical connectors." Pet. 30–31 (citing Ex. 1003 ¶ 114). Petitioner directs us to Shen's teachings that "the second port 25 of one battery unit electrically connect[s] to and [is] positioned by the third port 26 of another battery unit," that "each of the individual battery units 2, 3, 4, 5 may alternatively have their . . . third port 26 located at the back[] of their enclosures [] 21," and that "the user can assemble the power control module 1 and the individual battery unit 2 and/or the additional battery units 3, 4, 5 through a stacking operation." Pet. 31 (alterations in original) (citing Ex. 1005, 3:27–28, 3:38–43, Figs. 1, 2, and 8–10).⁸

We find that, for purposes of institution, Petitioner's contention is supported by Shen and Petitioner shows sufficiently that Shen discloses the limitation of claim 11.

4. Claim 13

Claim 13 depends from claim 9 and recites "wherein each at least one mechanical connector is selected to be at least one of a foot or an interlocking groove configured to removeably engage a foot." Ex. 1001, 8:51–54. Petitioner contends that Shen discloses the limitation of claim 13. Pet. 32–35. Petitioner asserts that Shen's positioning pin 27 and/or retaining hook 28 is a "foot," that Shen's positioning hole 271 and/or fixing hole 281 is a "groove," and that Shen's positioning holes 271 and fixing holes 281 are "configured to removeably engage" Shen's positioning pins 27 and retaining

⁸ See footnotes 6 and 7 above concerning Shen's Figures 1 and 2.

hooks 28. Pet. 32–33 (citing Ex. 1003 ¶ 115; Ex. 1005, 2:45–47, 3:12–21, Figs. 1, 8, 9). Petitioner further asserts that “[t]he positioning and fixing holes 271/281 (i.e., grooves) and the positioning and fixing pins/hooks 27/28 (i.e., feet) of Shen-599 are interlocking feet and grooves that removably engage with one another to releasably attach a first external battery pack to a power supply and a second external battery pack to the first external battery pack 2.” Pet. 34 (citing Ex. 1003 ¶ 117).

We find that, for purposes of institution, Petitioner’s contention is supported by Shen and Petitioner shows sufficiently that Shen discloses the limitation of claim 13.

5. Conclusion

We conclude that the information presented in the Petition establishes that it is more likely than not that Petitioner will prevail in showing that Shen anticipates claims 9, 11, and 13 of the ’954 Patent.

F. Petitioner’s Obviousness Grounds

Petitioner contends that claims 10, 12, and 13 are unpatentable as obvious in view of Shen and Lemelman. Pet. 35–46. Petitioner relies on Lemelman to show a lithium battery as recited in claim 10 (Pet. 37), protruding spring loaded terminals and female contact terminals as recited in claim 12 (Pet. 39–40), and a foot and interlocking groove as recited in claim 13 (Pet. 43–46). Petitioner contends that a POSITA would have found it obvious to combine the teachings of Shen with the teachings of Lemelman. Pet. 36–37.

Petitioner contends that claims 1, 3–8, 14, and 15 are unpatentable as obvious in view of Chang and Shen. Pet. 46–77. Petitioner relies on Chang to show a power supply having an alternating current (AC) power input and

a direct current (DC) power output and an external battery pack as recited in claims 1, 3, 6, and 14 (Pet. 51–54, 57–58, 69–70, 73–77), and the ability to charge a battery as recited in claims 1 and 3 (Pet. 62–63, 70). Petitioner relies on Shen to show the remaining elements of claims 1, 3–8, 14, and 15, which are generally similar to the limitations of claims 9, 11, and 13 discussed above. Petitioner contends that a POSITA would have found it obvious to combine the teachings of Chang with the teachings of Shen. Pet. 50.

Petitioner contends that claims 1, 2, 4, 5, and 8 are unpatentable as obvious in view of Chang, Shen, and Lemelman. Pet. 77–89. Petitioner relies on Lemelman to show interconnecting feet and grooves as recited in claims 1, 4, 5, and 8 and a lithium-based cell as recited in claim 2. Pet. 79–89. Petitioner relies on Chang and Shen to show the remaining elements of claims 1, 2, 4, 5, and 8, relying on the same contentions as it presents for previous grounds. *Id.* Petitioner contends that a POSITA would have found it obvious to combine the teachings of Chang and Shen with the teachings of Lemelman. Pet. 78–79.

Petitioner contends that claim 16 is unpatentable as obvious in view of Chang, Shen, and Krieger. Pet. 89–93. Petitioner relies on Krieger to show a base protective plate configured to interface between a wall mount area and either an external battery pack or a power supply as recited in claim 16. Pet. 91–93. Petitioner relies on Chang and Shen to show the remaining elements of claim 16, relying on the same contentions as it presents for previous grounds. Pet. 90–93. Petitioner contends that a POSITA would have been motivated to combine the teachings of Krieger with the modular, expandable battery UPS system of the combination of Chang and Shen. Pet. 90.

Our preliminary evaluation of Petitioner’s obviousness grounds indicates they may have merit. We are reluctant to make more definitive findings regarding as to obviousness until we hear from Patent Owner. In view of our determination that the Petition establishes that it is more likely than not Petitioner will prevail in showing that Shen anticipates claims 9, 11, and 13, we do not need to reach the “more likely than not” issue as to Petitioner’s obviousness grounds.

G. Petitioner’s Indefiniteness Ground

Petitioner contends claims 3–8 and 14–16 are unpatentable for indefiniteness under 35 U.S.C. § 112(b). Pet. 93–98. Petitioner criticizes particular claim language, including “opposite said/the first face” in claims 3 and 6, the preamble of claim 6, “third electrical connector” in claim 6, “power supply” in claims 14 and 16, “when the power input fails” in claim 6, and “selected to be” in claim 8. *Id.*

Our preliminary consideration of Petitioner’s indefiniteness contentions indicates that they may have merit. We are reluctant to make more definitive findings as to indefiniteness until we hear from Patent Owner. In view of our determination that the Petition establishes that it is more likely than not Petitioner will prevail in showing that Shen anticipates claims 9, 11, and 13, we do not need to reach the “more likely than not” issue as to Petitioner’s indefiniteness ground.

III. CONCLUSION

For the foregoing reasons, we conclude that the information presented in the Petition establishes that it is more likely than not that Petitioner will prevail in showing that at least one claim of the ’954 Patent is unpatentable.

IV. ORDER

It is

ORDERED that, pursuant to 35 U.S.C. § 324(a), a post-grant review of claims 1–16 of the '954 Patent is instituted with respect to all grounds of unpatentability asserted in the Petition; and

FURTHER ORDERED that, pursuant to 35 U.S.C. § 324(c) and 37 C.F.R. § 42.4, post-grant review of the '954 Patent shall commence on the entry date of this Decision and notice is hereby given of the institution of a trial.

PGR2021-00070
Patent 10,714,954 B2

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