

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

U.D. ELECTRONIC CORP.,
Petitioner,

v.

PULSE ELECTRONICS, INC.,
Patent Owner.

Case IPR2019-00262
Patent 9,178,318 B2

Before KEVIN F. TURNER, KRISTEN L. DROESCH, and
SHEILA F. McSHANE, *Administrative Patent Judges*.

DROESCH, *Administrative Patent Judge*.

DECISION
Denying Petitioner's Request for Rehearing
37 C.F.R. § 42.71(d)

I. INTRODUCTION

Petitioner filed a Request for Rehearing (Paper 11, “Req. Reh’g”) of the Decision Denying Institution of *Inter Partes* Review (Paper 10, “Decision” or “Dec.”) of claims 14 and 17 of U.S. Patent 9,178,318 B2 (Ex. 1001, “’318 Patent”). Petitioner contends the Board abused its discretion and committed legal error by: (1) basing the Decision on an implicit construction of “body shield,” which Petitioner alleges resulted in an apparent claim scope that improperly imports limitations into the claim, where the limitations lack written description support and are not enabled; and (2) by expressly stating that an explicit claim construction was not required. *See* Req. Reh’g 1–2, 11 (citations omitted). For the reasons explained below, Petitioner’s Request for Rehearing is denied.

Overview of Petition, Preliminary Response, and Decision

Independent claim 14 of the ’318 Patent recites in pertinent part: the plurality of EMI shields further comprising **a body shield that interfaces with** the internal printed circuit board at least at a back portion of the internal printed circuit board to improve electrical isolation for the plurality of sets of electronic components [(“body shield limitation”)]; and a shielding tab disposed at least partly within at least one of the plurality of connector ports, the shielding tab configured to provide electrical connectivity between the internal printed circuit board and **the body shield** at a front portion of the internal printed circuit board [(“shielding tab limitation”)].

Ex. 1001, 16:29–38 (emphasis added).

The parties presented proposed constructions for numerous claim terms and phrases, including “body shield,” and “interfaces with.” *See* Pet. 9–13; Prelim. Resp. 10–15. Petitioner asserted that “body shield” should be construed as “a member positioned and formed of materials to mitigate

possible electrical noise on at least one side thereof” (Pet. 11), with Patent Owner asserting that the term should be construed as “one or more shields that are disposed on one or more outer surfaces or boundaries of the connector housing” (Prelim. Resp. 10–11). Petitioner asserted that “interfaces with” should be construed as “contacts and electrically interacts with” (Pet. 11–12), with Patent Owner asserting that the term should be construed as “is in electrical conductivity with” (Prelim. Resp. 12–13). The Board determined that no claim terms or phrases required an explicit construction for the purposes of determining whether to institute *inter partes* review. *See* Dec. 8 (quoting *Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co. Ltd.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017)).

Petitioner asserted multiple grounds, alleging the unpatentability of claims 14 and 17, with all of the grounds relying, at least in part, on the prior art references Molex and Regnier. Dec. 7 (citing Exs. 1003, 1005). Petitioner identified Molex or Regnier’s shielding member 190 and upwardly extending solder tail 195 configured for insertion into soldering hole 74a of circuit board 74 as disclosing the body shield limitation. *See* Pet. 31–32; Dec. 14. Petitioner identified Molex or Regnier’s “clip 110 with flexible contact arms 115 that electrically connect inter-module shields 60 to ground contact pads 73 of circuit board 74 as disclosing” the shielding tab limitation. Dec. 14; *see* Pet. 33–35.

Patent Owner argued that, even assuming Petitioner’s proposed construction of “body shield” was correct, Petitioner’s application of Molex and Regnier’s disclosures were inconsistent with the recitations of claim 14. *See* Prelim. Resp. 34–37. The Board agreed with Patent Owner’s arguments, finding that “Petitioner does not direct us to any description in Molex or

Regnier sufficient to support a finding that clip 110 is configured to provide electrical connectivity between internal printed circuit board 74 or 78 and elongated body shield 190.” Dec. 15; *see id.* at 16–17.

Standard of Review

The applicable standard for a request for rehearing is set forth in 37 C.F.R. § 42.71(d), which provides that a request for rehearing “must specifically identify all matters the party believes the Board misapprehended or overlooked, and the place where each matter was previously addressed in a motion, an opposition, or a reply.” The party challenging a decision bears the burden of showing the decision should be modified. *See id.* “When rehearing a decision on petition, a panel will review the decision for an abuse of discretion.” 37 C.F.R. § 42.71(c).

II. ANALYSIS

A. Alleged Board Adoption of Claim Construction

Petitioner asserts that claim 14 “only states that the body shield ‘interfaces with the internal printed circuit board at least at a back portion,’ and is in ‘electrical connectivity’ with ‘the internal printed circuit board’ at ‘a front portion of the internal printed circuit board.’” Req. Reh’g 3 (citing Ex. 1001, 16:29–38). Petitioner contends that the ’318 Patent discloses two different elements—back shield 106 and body shield 104—that describe and enable these separate limitations. *See id.* (citing Ex. 1001, 6:20–60, 7:21–23), *id.* at 8–9 (citing Ex. 1001 6:58–65, 7:19–30, Figs. 1D, 1F), *id.* at 10. According to Petitioner, “the Board adopted an implicit construction of ‘body shield’ as requiring claim 14 to have a single, unitary structure that meets the two separate limitations of the ‘body shield’.” *Id.* at 3. Petitioner contends that the alleged “single structure” requirement is contrary to the

claim's scope, as described and enabled, under the '318 Patent Specification. *See id.* at 2–3. Petitioner contends that nothing in the '318 Patent Specification or claim 14 requires the “body shield” to be a single unitary piece of shielding. *See id.* at 3–4, 8–9. Petitioner further contends the Board's alleged implicit construction is a factual finding unsupported by the evidence. *See id.* at 4. Petitioner argues that it was an abuse of discretion and clear error of law for the Board to impose a single unitary body requirement on the language of claim 14. *See id.* at 2–3, 6, 9–11 (case citations omitted). Petitioner further argues that the Board's alleged improper construction requiring a single unitary structure led the Board to improperly conclude that Molex and Regnier are not likely to anticipate the challenged claims. *See id.* at 4. Specifically, in regard to the shielding tab limitation, Petitioner contends the Board's finding was based on the requirement that the limitations of claim 14 relating to body shield be met by a single unitary structure. *See id.* at 5–6; Dec. 10.

Contrary to Petitioner's arguments, the Board did not impose an implicit claim construction requiring a single, unitary body requirement for “body shield” as recited in the limitations of claim 14. The reason that the Petition was denied was not based on the alleged claim construction, but rather was that the prior art, as asserted, did not teach all of the claim 14 limitations. Dec. 16. As briefly discussed above, Petitioner identified Molex or Regnier's shielding member 190 and upwardly extending solder tail 195 as disclosing “a body shield” of the body shield limitation. *See Pet.* 31–32.

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