

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ALLERGAN, INC., ALLERGAN LIMITED, ALLERGAN USA, INC.,
ZELTIQ AESTHETICS, INC., ZELTIQ IRELAND UNLIMITED
COMPANY, AND REMED CO. LTD.,
Petitioner,

v.

BTL HEALTHCARE TECHNOLOGIES A.S.,¹
Patent Owner.

PGR2021-00017
Patent 10,632,321 B2

Before JOSIAH C. COCKS, BARBARA A. PARVIS, and DAVID COTTA,
Administrative Patent Judges.

PARVIS, *Administrative Patent Judge.*

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

¹ Further to Patent Owner's request, we have changed the case caption to reflect that former patent owner BLT Medical Technologies S.R.O. assigned the '321 patent to BLT Healthcare Technologies A.S. Ex. 3002.

I. INTRODUCTION

Allergan, Inc., Allergan Limited, Allergan USA, Inc., Zeltiq Aesthetics, Inc., Zeltiq Ireland Unlimited Company, and Remed Co. Ltd. (“Petitioner”) filed a Petition (Paper 1 (“Pet.”)) requesting post-grant review of claims 1–30 (“challenged claims”) of U.S. Patent No. 10,632,321 B2 (Ex. 1005, “the ’321 Patent”), along with the supporting Declaration of Dr. Pedro Irazoqui (Ex. 1023). The predecessor in interest of BLT Healthcare Technologies A.S. (“Patent Owner”), BTL Medical Technologies S.R.O. filed a Preliminary Response. Paper 8 (“Prelim. Resp.”). With our authorization (Paper 9), Petitioner filed a Reply to Patent Owner’s Preliminary Response (Paper 10) and Patent Owner filed a Sur-Reply (Paper 13).

After considering the Petition, the Preliminary Response, Petitioner’s Reply, and Patent Owner’s Sur-Reply, as well as all supporting evidence, we determine the Petition does not demonstrate that it is more likely than not that at least one of the challenged claims of the ’321 patent is unpatentable. 35 U.S.C. § 324(a). Thus, we do not institute post-grant review of the challenged claims of the ’321 Patent.

II. BACKGROUND

A. *Real Parties-in-Interest*

Petitioner identifies as the real parties-in-interest the following: AbbVie Inc., Allergan, Inc., Allergan Limited, Allergan USA, Inc., Zeltiq Aesthetics, Inc., Zeltiq Ireland Unlimited Company, and Remed Co. Ltd. Pet. 100. Patent Owner names itself, BTL Medical Technologies S.R.O., and BTL Industries, Inc. as the real parties-in-interest. Paper 15, 1.

B. Related Matters

As required by 37 C.F.R. § 42.8(b)(2), each party identifies a judicial matter that would affect, or be affected by, a decision in this proceeding. In particular, the parties inform us that the '321 Patent is asserted in the following district court case: *BTL Industries, Inc. v. Allergen Ltd.*, Case No. 1-20-cv-01046 (D.Del.) (“parallel district court proceeding”), which was filed August 5, 2020 and is stayed. Pet. 101; Paper 5, 2. The parties additionally identify the following proceeding as a related matter: Certain Non-Invasive Aesthetic Body Contouring Devices, Components Thereof, and Methods of Using the Same, Inv. No. 337-TA-1219 (ITC), filed August 5, 2020 (“the ITC proceeding”). Pet. 101; Paper 5, 2.

The '321 Patent is also the subject of PGR2021-00018. Paper 3, 2; Paper 5, 1. The instant Petition is the first ranked Petition. Paper 3, 2.

Petitioner also has filed contemporaneously petitions for *inter partes* review as follows: (1) a petition for *inter partes* review of U.S. Patent No. 10,493,293 (IPR2021-00296); and (2) a petition for *inter partes* review of U.S. Patent No. 10,478,634 (IPR2021-00312). Petitioner further has filed contemporaneously petitions for post grant review of U.S. Patent No. 10,709,895 (PGR2021-00015 and PGR2021-00016); U.S. Patent No. 10,695,575 (PGR2021-00020 and PGR2021-00021); U.S. Patent No. 10,709,894 (PGR2021-00022 and PGR2021-00023); and U.S. Patent No. 10,695,576 (PGR2021-00024 and PGR2021-00025). Paper 5, 2.

C. The '321 Patent

The '321 Patent relates to device and methods using the influence of magnetic and induced electric field on biological structure. Ex. 1005, 1:22–24. A circuit for providing high power pulses to the stimulating magnetic field generating device is shown in Figure 5b, reproduced below.

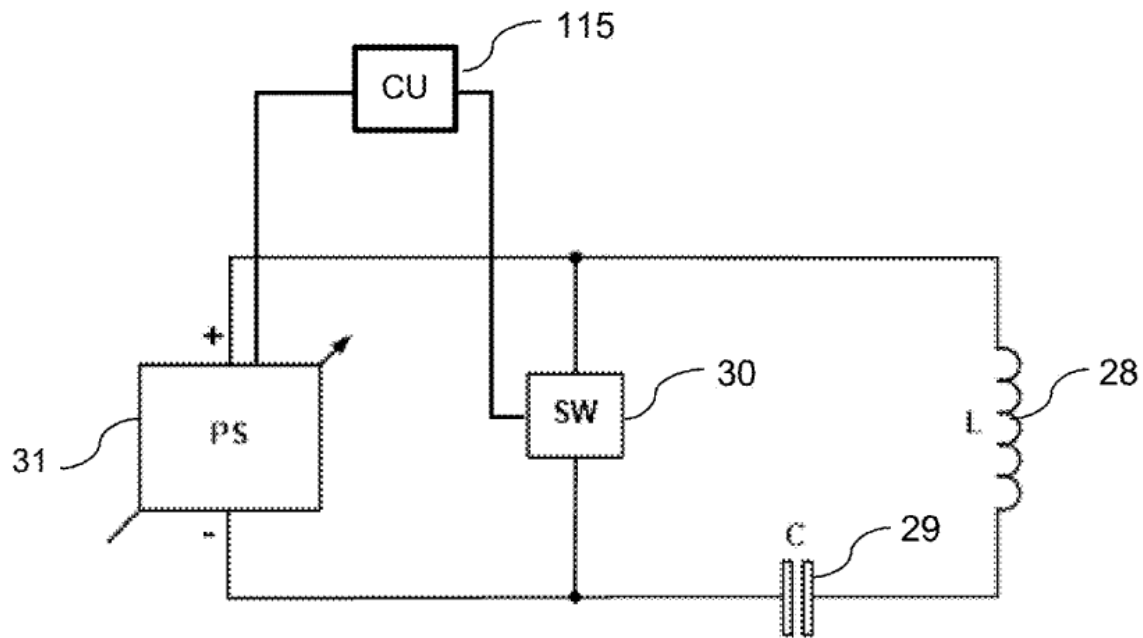


Figure 5b

Figure 5b, above, shows a circuit for providing high power pulses for improved function of a treatment device. *Id.* at 15:11–12.

Figure 5b, above, includes magnetic field generating device 28 and energy storage device 29 connected in series and disposed in parallel to switch 30. *Id.* at 15:12–15. To provide an energy pulse, controlled shorting of energy source 31 takes place through the switch 30. *Id.* at 15:16–18. Energy source 31 or switch 30, or alternately both, may be regulated by control unit 115. *Id.* at 15:23–26.

An exemplary embodiment of a magnetic treatment device including two independent magnetic field generating circuits is shown in Figure 12, reproduced below.

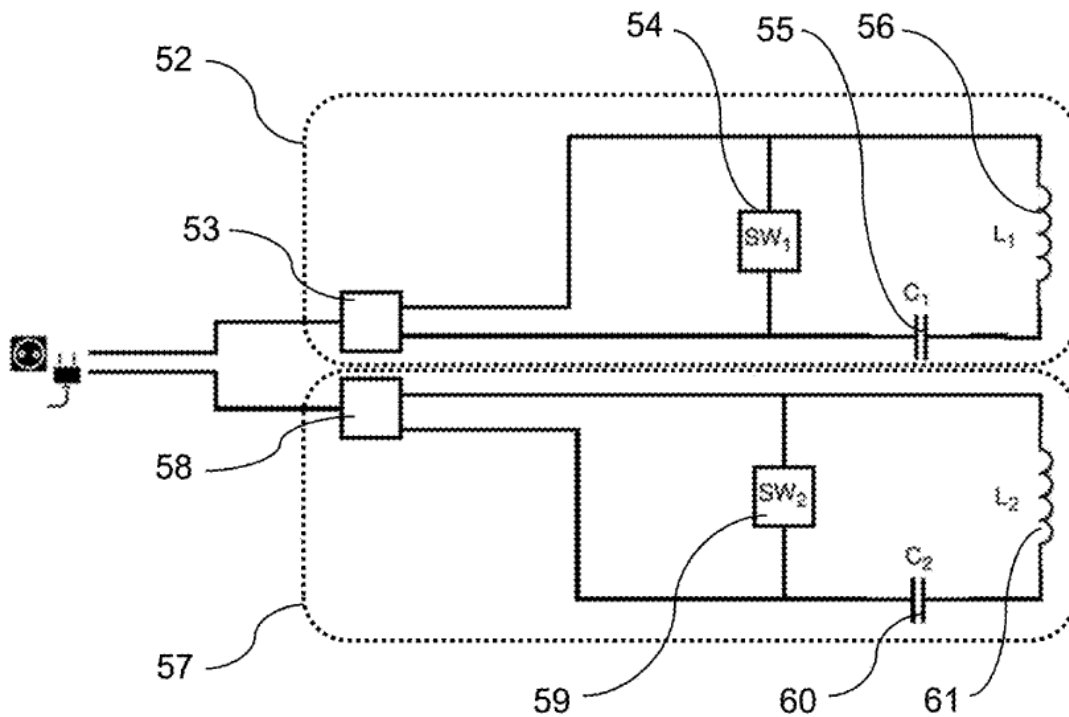


Figure 12

Figure 12, above, shows an embodiment of the magnetic treatment device including two independent magnetic field generating circuits.
Id. at 20:25–27.

The circuit shown in Figure 12 above includes magnetic field generating circuit 52 and magnetic field generating circuit 57. *Id.* at Fig. 12, 20:27–33. Magnetic field generating circuit 52 includes energy source 53, switching device 54, energy storage device 55, and magnetic field generating device 56. *Id.* at 20:27–30. Magnetic field generating circuit 57 includes energy source 58, switching device 59, energy storage device 60, and magnetic field generating device 61. *Id.* at 20:30–33. A control unit controls providing energy from the energy storage devices to the coils to generate magnetic impulses by the coils. *Id.* at 20:58–61.



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