

BLACKBIRD TECH LLC v. ELB ELECTRONICS INC., Appeal No. 2017-1703 (Fed. Cir. July 16, 2018). Before Prost, Moore, and Reyna. Appealed from D. Del. (Judge Andrews).

Background:

Blackbird sued ELB for patent infringement, alleging that ELB infringed a claim directed to an energy-efficient lighting apparatus for retrofitting an existing light fixture.

Before the district court, the parties disputed the meaning of the claim term "attachment surface," which is a part of the housing of the claimed lighting apparatus. Blackbird argued that "attachment surface" is "the layer of the housing to which the illumination surface is secured," consistent with the language of the asserted claim, which recites "a fastener to secure the attachment surface to the illumination surface." ELB argued that "attachment surface" should mean "the layer of the housing that is secured to the ballast cover and to which the illumination surface is secured." The district court modified and partly adopted ELB's construction, and construed "attachment surface" to mean "layer of the housing that is secured to the ballast cover," to be consistent with the embodiments described in the specification.

Based on this claim construction, Blackbird stipulated to non-infringement and appealed.

Issue/Holding:

Did the district court err in construing the "attachment surface" to mean "the layer of the housing that is secured to the ballast cover"? Yes, vacated and remanded.

Discussion:

The majority agreed with Blackbird's proposed construction of the "attachment surface" to be "the layer of the housing to which the illumination surface is secured." The majority acknowledged that the original claim required a fastener to secure the attachment surface to the ballast cover. However, the required attachment to the ballast cover was deleted during the prosecution of the patent, and the term "ballast cover" was replaced with "illumination surface," allegedly to correct §112 issues. The majority held that limitations related to the deleted claim feature should not be imported back into the claim. The majority reasoned that the plain language of the claim requires a fastener for securing the attachment surface to the illumination surface, and does not require the attachment surface be secured to anything other than the illumination surface. Accordingly, the majority vacated the district court's judgment and remanded for further proceedings.

Judge Reyna dissented, stating that the majority ignored the retrofit function that the attachment surface plays in the lighting apparatus. Judge Reyna asserted that the plain language of the claim, when read in the context of the specification, implicitly requires that the attachment surface be secured to the ballast cover to achieve the retrofit function. Judge Reyna also emphasized that the preamble describes a lighting apparatus "for retrofit with an existing light fixture having a ballast cover." That is, the only feature of the existing light fixture described in the claim is the ballast cover. As such, the word "retrofit" in the preamble implied securing the apparatus to a part of the existing light fixture (i.e., the ballast cover), and thus one skilled in the art would necessarily conclude that the attachment surface is secured to the ballast cover of the existing light fixture.

The claim discussed in the summary recites:

An energy-efficient lighting apparatus for retrofit with an existing light fixture having a *ballast cover*, comprising:
a housing having an *attachment surface* and an *illumination surface*;

...

a fastening mechanism for *securing the attachment surface of the lighting apparatus to the illumination surface*, wherein the lighting apparatus is coupled to a wall switch and wherein the illumination of the light-emitting diodes is controllable based upon the position of the wall switch.

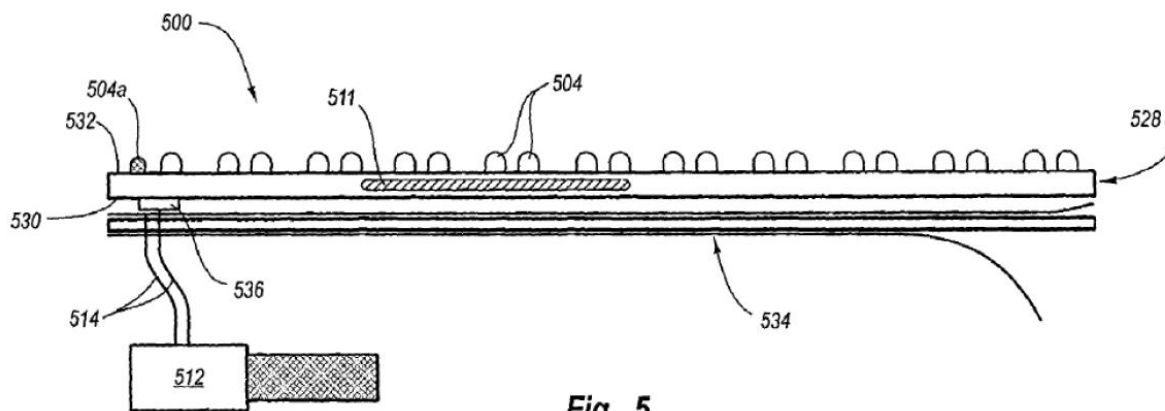


Fig. 5