

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PEAG LLC (d/b/a JLab Audio), AUDIO PARTNERSHIP LLC
and
AUDIO PARTNERSHIP PLC (d/b/a Cambridge Audio)
Petitioner,

v.

VARTA MICROBATTERY GMBH,
Patent Owner.

IPR2020-01211
Patent 9,496,581 B2

Before CHRISTOPHER L. CRUMBLEY, JON B. TORNQUIST, and
MONTÉ T. SQUIRE, *Administrative Patent Judges*.

CRUMBLEY, *Administrative Patent Judge*.

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

PEAG LLC (d/b/a JLab Audio), Audio Partnership LLC and Audio Partnership PLC (d/b/a Cambridge Audio) (collectively, “Petitioner”) filed a Petition (Paper 1, “Pet.”) requesting the Board institute an *inter partes* review of claims 1–12 of U.S. Patent No. 9,496,581 B2 (Ex. 1001, “the ’581 patent”). Varta Microbattery GmbH (“Patent Owner”) filed a Preliminary Response (Paper 7, “Prelim. Resp.”). Petitioner identifies PEAG LLC (d/b/a JLab Audio), Audio Partnership LLC, Audio Partnership PLC (d/b/a Cambridge Audio), and Guangdong Mic-Power New Energy Co. Ltd., as the real parties-in-interest. Pet. 1. Patent Owner identifies VARTA Microbattery GmbH, as the real party-in-interest. Paper 5, 1.

We have authority to determine whether to institute an *inter partes* review. *See* 35 U.S.C. § 314 (2018); 37 C.F.R. § 42.4(a) (2019). The standard for instituting an *inter partes* review is set forth in 35 U.S.C. § 314(a), which provides that an *inter partes* review may not be instituted “unless the Director determines . . . there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.”

Having considered the Petition, Preliminary Response, and evidence of record, for the reasons below, we determine that the Petition shows a reasonable likelihood that Petitioner would prevail with respect to at least one of the challenged claims. Patent Owner has not persuaded us that we should exercise our discretion to deny institution. We thus institute *inter partes* review on all challenged claims on all asserted grounds. *See SAS Inst., Inc. v. Iancu*, 138 S. Ct. 1348, 1354, 1359–60 (2018); *see also* Patent Trial and Appeal Board Consolidated Trial Practice Guide 64 (Nov. 2019) (“The

Board will not institute on fewer than all claims or all challenges in a petition.”), *available at* <https://www.uspto.gov/TrialPracticeGuideConsolidated> (“TPG”).

II. BACKGROUND

A. Related Matters

The parties indicate that the ’581 patent is the subject of the following pending consolidated district court actions: *VARTA Microbattery GmbH v. Costco Wholesale Corporation*, No. 2:20-cv-0051-JRG (E.D. Tex.); *VARTA Microbattery GmbH v. Amazon.com, Inc.*, No. 2:20-cv-0052-JRG (E.D. Tex.); *VARTA Microbattery GmbH v. Best Buy Co., Inc.*, No. 2:20-cv-0054-JRG (E.D. Tex.); *VARTA Microbattery GmbH v. PEAG, LLC*, No. 2:20-cv-0071-JRG (E.D. Tex.); *VARTA Microbattery GmbH v. Audio Partnership LLC, et al.*, No. 2:20-cv-00138-JRG (E.D. Tex.); and *VARTA Microbattery GmbH v. Samsung Electronics America, Inc.*, No. 2:20-cv-00029-JRG (E.D. Tex.) (collectively, “the District Court Action”). Pet. 1; Paper 5, 2–3; Ex. 2002. Petitioner also filed petitions challenging claims of other patents asserted in the District Court Action in IPR2020-01212, IPR2020-01213, and IPR2020-01214. Pet. 2; Paper 5, 3.

B. The ’581 Patent (Ex. 1001)

The ’581 patent is titled “Button Cells and Method of Producing Same” and issued November 15, 2016, with claims 1–13. Ex. 1001, codes (54), (45), 12:15–13:12. The ’581 patent describes a button cell that includes a housing cup and a top separated by a seal and forms a housing with parallel flat bottom and top areas, and an electrode-separator assembly including a flat positive and negative electrode and connected by one flat separator, wherein the electrodes are aligned essentially at right angles to the

flat bottom and top areas and the assembly is a spiral winding having end faces defining side surfaces of the winding facing in an axial direction relative to the flat bottom and top areas. *Id.* at code (57), 9:34–39, 11:11–24. The '581 patent further describes that the positive and negative electrodes are each in the form of flat electrode layers and connected to one another via a flat separator, and the electrodes are preferably laminated or adhesively bonded onto this separator. *Id.* at 3:22–30.

Figure 4 of the '581 patent, reproduced below, illustrates a button cell according to an embodiment of the claimed invention.

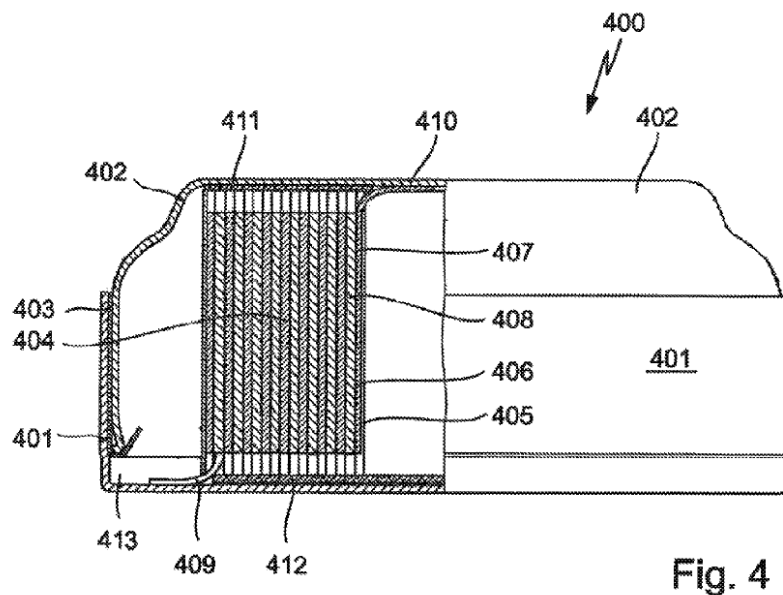


Figure 4 of the '581 patent, above, shows button cell 400 including a housing comprising cup part 401 and top part 402, between which seal 403 is arranged; an assembly of electrodes 407 and 408 and separators 405 and 406, contained as spiral winding 404 within the housing; output conductors 409 and 410; insulating means 411 and 412; and support ring 413. *Id.* at 11:11–24, Fig. 4.

The '581 patent discloses that electrode 407 is connected via output conductor 410 to top part 402 and electrode 408 is connected via output conductor 409 to cup part 402. Ex. 1001, 11:21–24. The '581 patent further discloses that insulating means 411 and 412 are arranged between the end faces of the winding and cup part 401 and top part 402. *Id.* at 11:28–31. The '581 patent also discloses that the insulating means may be a flat layer composed of plastic, for example, a plastic film. *Id.* at 6:35–36.

C. Challenged Claims

Petitioner challenges claims 1–12 of the '581 patent. Pet. 8. Claim 1, the sole independent claim, is illustrative of the subject matter of the challenged claims:

1. A button cell comprising:

a housing cup and a housing top separated from one another by an electrically insulating seal and which form a housing with a flat bottom area and a flat top area parallel to it, and

an electrode-separator assembly within the housing comprising at least one positive and at least one negative electrode in the form of flat layers and connected to one another by at least one flat separator,

wherein

the electrode layers are aligned essentially at right angles to the flat bottom area and the flat top area and the electrode-separator assembly is a spiral winding having end faces defining side surfaces of the spiral winding facing in an axial direction relative to the flat bottom area and the flat top area, and

one of the electrodes connects to the flat bottom area or the flat top area via an output conductor comprising a foil resting flat between an end face of the spiral

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