

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHARLES J. BARNETT and THOMAS M. WILSON

Appeal No. 95-4803
Application 08/096,099¹

ON BRIEF

Before: WINTERS and WILLIAM F. SMITH, Administrative Patent Judges, and McKELVEY, Senior Administrative Patent Judge.

McKELVEY, Senior Administrative Patent Judge.

Decision on appeal under 35 U.S.C. § 134

¹ Application for patent filed July 23, 1993. The real party in interest appears to be Eli Lilly and Company.

Appeal No. 95-4803
Application 08/096,099

Upon consideration of the BRIEF FOR APPELLANTS (Paper 12), the EXAMINER'S ANSWER (Paper 13), the REPLY BRIEF FOR APPELLANTS (Paper 14) and the record, it is

ORDERED that the decision of the examiner rejecting claims 11-22 under 35 U.S.C. § 103 over the prior art is reversed on the basis of In re Ochiai, 71 F.3d 1565, 37 USPQ2d 1127 (Fed. Cir. 1995). The examiner's attention is also directed to Ex parte Cook, Appeal 93-3342 (Bd. Pat. App. & Int. Sept. 21, 1998), entered in an appeal involving the same real party in interest and essentially the same issues.

REVERSED

SHERMAN D. WINTERS,)
Administrative Patent Judge)
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_____)
WILLIAM F. SMITH,) BOARD OF
PATENT)
Administrative Patent Judge) APPEALS
AND)
INTERFERENCES)
)
_____)

Appeal No. 95-4803
Application 08/096,099

FRED E. McKELVEY, Senior)
Administrative Patent Judge)

Appeal No. 95-4803
Application 08/096,099

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