

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

Paper No. 29

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte ANNA M.G. BOSCH, ANTONIUS H.W.M. SCHUURS,  
WILHELMUS J.H.M. STEVENS and BAUKE K. VAN WEEMEN

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Appeal No. 1996-2842  
Application No. 08/164,581

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ON BRIEF

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Before WILLIAM F. SMITH, ROBINSON, and SCHEINER, Administrative Patent Judges.  
ROBINSON, Administrative Patent Judge.

REQUEST FOR REHEARING

Appellants request reconsideration (rehearing) of the board's decision entered June 26, 2000, wherein the board entered a new ground of rejection under the provisions of 37 CFR § 1.196(b).

In the decision of June 26, 2000, this merit panel reversed the examiner's rejections under 35 U.S.C. § 112, first paragraph, and 35 U.S.C. § 103 and entered a new ground of rejection of claims 78-88 under 35 U.S.C. § 112, first paragraph, as being based on an

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inadequate written description for that aspect of the claimed invention wherein "one of the first and second reagents comprises two different monoclonal antibodies and the antibodies in the first reagent and the antibodies in the second reagent consist of three different monoclonal antibodies reactive with different epitopes on said antigen."

Appellants have requested reconsideration of this rejection in view of that portion of the specification, appearing at page 8, lines 13-18, which reads:

a test kit for the determination of human placenta lactogenic hormone (HPL); consisting of a microtitration plate, of which the walls of the pits are coated with monoclonal antibody A against HPL; ampoules with a freeze-dried mixture of antibodies B and C against HPL, marked with the enzyme peroxidase, . . . .

We would agree that this portion of the specification would reasonably support the concept of a first and second reagent wherein one of the reagents contains two different antibodies and the antibodies in the first and second reagents consist of three different antibodies. Therefore, the rejection of claims 78-88 under 35 U.S.C. § 112, first paragraph is withdrawn.

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Summary

Appellants' request for rehearing has been granted. The rejection of claims 78-88 under 35 U.S.C. § 112, first paragraph, as being based on an inadequate written description of the subject matter presently claimed, is withdrawn.

REHEARING  
GRANTED

	)	
WILLIAM F. SMITH	)	
Administrative Patent Judge	)	
	)	
	)	
	)	BOARD OF PATENT
DOUGLAS W. ROBINSON)	)	APPEALS AND
Administrative Patent Judge	)	
	)	INTERFERENCES
	)	
TONI R. SCHEINER )	)	
Administrative Patent Judge	)	

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