

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 94

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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HEINZ-JÜRGEN FRIESEN, GERD GRENNER,  
HANS ERWIN PAULY, HELMUT KOHL,  
KLAUS HABENSTEIN  
and JOSEPH STÄRK  
Junior Party,<sup>1</sup>

v.

PATRICK E. GUIRE  
and MELVIN J. SWANSON  
Senior Party,<sup>2</sup>

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Patent Interference No. 103,072

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<sup>1</sup> Patent 4,861,711 issued August 29, 1989, based on Application 06/808,563, filed December 13, 1995. Assignor to Behringwerke Aktiengesellschaft, Marburg/Lahn, Germany, A Corporation of Germany.

<sup>2</sup> Application 07/891,864 filed June 1, 1992. Accorded Benefit of: U.S. Applications 07/574,607, filed August 28, 1990; 06/467,229, filed February 23, 1983, now Patent No. 5,073,484, issued December 17, 1991; 06/356,459, filed March 9, 1982. Assignor to Bio-Metric Systems, Inc., St. Eden Prairie, MN, A Corporation of Minnesota.

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Before RONALD H. SMITH, SOFOCLEOUS, Administrative Patent Judges.  
and McKELVEY, Senior Administrative Patent Judge.

RONALD H. SMITH, Administrative Patent Judge.

Judgment

Whereas Friesen et al., the junior party, have failed to make any showing why judgment on the record should not be entered against them, in view of the fact that the dates set forth in their preliminary statement are subsequent to the effective filing date of Guire et al., the senior party, and whereas the time allowed for such showing has expired, pursuant to the order of September 27, 1994, judgment under 37 CFR

§ 1.640(e) is hereby entered as follows:

Judgment as to the subject matter of the counts in issue is hereby awarded to Patrick E. Guire and Melvin J. Swanson, the senior party. Friesen et al., the junior party, are not entitled to a patent containing claims 1-8, 10-21 and 23-34 corresponding to the counts, but are entitled to a patent

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containing claims 9 and 22 which do not correspond to any count. Guire et al. are entitled to a patent containing claims 26 and 27 corresponding to the counts.

RONALD H. SMITH )  
Administrative Patent Judge )  
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MICHAEL SOFOCLEOUS ) BOARD OF PATENT  
Administrative Patent Judge ) APPEALS AND  
 ) INTERFERENCES  
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 )

Interference No. 103,072

FRED E. McKELVEY, Senior )  
Administrative Patent Judge )  
)

Counsel for Friesen et al.:

Thomas L. Irvin  
Finnegan, Henderson, Farabow,  
Garrett & Dunner  
1300 I Street, N.W.  
Washington, D.C. 20005-3315

Counsel for Guire et al.:

Rudolf E. Hutz  
Connolly & Hutz  
1220 Market Street, P.O. Box 2207  
Wilmington, DE 19899