

Trial Section Merits Panel and is not binding precedent of the Board.
BOX INTERFERENCE
WASHINGTON DC 20231
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Paper No. 81

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

DIANE P. FUKUDA, ARTHUR S. ELDREDGE,
and THOMAS F. BUCK
(5,161,427),

Junior Party,

v.

JAMES L. GIATRAS, KEVIN P. KRAY,
and CHARLES R. MARINO
(07/263,182, 07/568,345,
and 08/472,514),

Senior Party,

Interference No. 103,618

Before McKELVEY, Senior Administrative Patent Judge, and
SCHAFER and TORCZON, Administrative Patent Judges.

PER CURIAM.

JUDGMENT

(PURSUANT TO 37 CFR § 1.662(a))

INTRODUCTION

Fukuda has submitted a settlement agreement between the parties (Paper No. 79). Fukuda requests that the settlement

agreement be kept separate from the file of the interference, see 35 U.S.C. § 135(c), and that counsel of record be permitted to respond to any petition under 37 CFR § 1.666(b). We do not construe the request to apply to access by an agency of the United States government, which may be had on written request without petition. Otherwise, a petition under Rule 666(b), like other petitions in an interference, must be served on counsel of record and any opposition filed within twenty days of service unless otherwise provided.

Fukuda and Giatras report that the involved applications are now commonly assigned to Fukuda's real party-in-interest (Paper No. 80). Giatras requests adverse judgment under 37 CFR § 1.662(a).

ORDER

Upon consideration of the record of this interference, it is

ORDERED that judgment on priority as to Count 1 (in Paper No. 22) is awarded against senior party Giatras;

FURTHER ORDERED that senior party Giatras is not entitled to a patent containing claims 1-7 and 16-28 of 07/263,182, claims 8-15 and 27-26 of 07/568,345, and claims 27-32 and 34-38 of 08/472,514, which correspond to Count 1;

FURTHER ORDERED that, based on the record before us,
junior party Fukuda is entitled to a patent containing claims
1-7 of 5,161,427, which correspond to Count 1; and

FURTHER ORDERED that a copy of this decision be given a
paper number and be entered in the administrative record of
each of Fukuda's 5,161,427 patent and Giatras' 07/263,182,
07/568,345, and 08/472,514 applications.

FRED E. MCKELVEY, Senior
Administrative Patent Judge

RICHARD E. SCHAFER
Administrative Patent Judge

RICHARD TORCZON
Administrative Patent Judge

BOARD OF
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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Board of Patent Appeals and Interferences
Interference Trial Section

5 January 2001 - 15.35

TO: Yolunda R. Townes
Sonja Despertt

FROM: Richard Torczon

INTERFERENCE NO. 103,618

9 Please review the attachment and, if no corrections are necessary, please circulate as indicated.

9 If corrections are necessary, please mark the attachment accordingly and return it to me.

Thank you for your assistance in this matter.

Attachment

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