

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 239

Filed by: Merits Panel
Box Interference
Washington, D.C. 20231
Tel: 703-308-9797
Fax: 703-305-0942

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

SYRIAC J. PALACKAL, HELMUT G. ALT, KONSTANTINOS PATSIDIS,
TARA G. HILL, GIL R. HAWLEY, PETER P. CHU
M. BRUCE WELCH and ROLF L. GEERTS
(Patent 5,401,817),

Junior Party,

v.

LUIGI RESCONI and ROBERT L. JONES
(Application 08/175,135),

Senior Party.

Patent Interference No. 103,942

Before: McKELVEY, Senior Administrative Patent Judge, and
SCHAFER and LEE, Administrative Patent Judges.

McKELVEY, Senior Administrative Patent Judge.

MEMORANDUM OPINION and FINAL JUDGMENT

A. Background

In our MEMORANDUM OPINION and ORDER entered 4 January 2000 (Paper 236), Palackal was ordered to show cause why judgment should not be entered against Palackal claims 1-2 (page 74) and Resconi was ordered to show cause why judgment should not be entered against Resconi claims 14-18 (page 74).

Resconi has responded with a COMMUNICATION PURSUANT TO PAPER NO. 236 MEMORANDUM OPINION AND ORDER (Paper 237) indicating that it will not respond.

Palackal has responded with a RESPONSE BY PALACKAL ET AL. TO MEMORANDUM OPINION AND ORDER (Paper 238) indicating that it will not respond.

Since neither party has elected to file a response, a judgment consistent with our MEMORANDUM OPINION and ORDER is being entered as part of this paper.

B. Palackal's requests for clarification

Palackal makes two requests for modification of the MEMORANDUM OPINION and ORDER.

1. Palackal requests that the MEMORANDUM OPINION and ORDER be modified to indicate that Palackal Preliminary Motion 1 is granted (Paper 238, page 2). On page 74 of the MEMORANDUM OPINION and ORDER, we state that it is "FURTHER ORDERED that Palackal Preliminary Motion 1 is granted."

(emphasis in original). Hence, it would appear that no modification to our MEMORANDUM OPINION and ORDER is necessary.

2. Palackal also requests that a correction be made to page 64 to indicate that it is the Alt patent, not the Japanese Application, which anticipates Resconi claims 14-18. On page 64, we state "We find that the Japanese Application anticipates Resconi claims 14-18 as follows:". We should have stated that "We find that Alt anticipates Resconi claims 14-18 as follows:". A hand correction has been made on page 64 of our MEMORANDUM OPINION and ORDER.

C. Final Judgment

Upon consideration of the record, it is

ORDERED that Palackal is not entitled to a patent containing claims 1-2 of U.S. Patent 5,401,817, granted 28 March 1995, based on application 08/064,630, filed 20 May 1993.

FURTHER ORDERED that, on the record before the board, Palackal is entitled to a patent containing claims 3 and 10-11 of U.S. Patent 5,401,817, granted 28 March 1995, based on application 08/064,630, filed 20 May 1993.

FURTHER ORDERED that Resconi is not entitled to a patent containing claims 14-18 of application 08/175,135, filed 29 December 1993.

FURTHER ORDERED that if there is a settlement agreement, attention is directed to 35 U.S.C. § 135(c).

	<hr/>	
	FRED E. McKELVEY, Senior)
	Administrative Patent Judge)
)
)
	<hr/>)
PATENT	RICHARD E. SCHAFER) BOARD OF
	Administrative Patent Judge) APPEALS AND
) INTERFERENCES
)
)
	<hr/>)
	JAMESON LEE)
	Administrative Patent Judge)

cc (via First Class Mail):

Attorneys for Palackal
(real party in interest
Phillips Petroleum Company):

Edward L. Bowman, Esq.
Bion E. Hitchcock, Esq.
RICHMOND, HITCHCOCK, FISH & DOLLAR
P.O. Box 2443
Bartlesville, OK 74005

Tel: 918-661-0526 (Bowman)
Tel: 918-661-0534 (Hitchcock)
Fax: 918-661-8739
Fax: 918-661-6204
E-mail: elbowma@ppco.com
E-mail: behitch@ppco.com

Address for Federal Express:

216 Patent and Library Bldg.
Phillips Research Center
Bartlesville, OK 74004

Herbert D. Hart, III, Esq.
McANDREWS, HELD & MALLOY, Ltd.
34th Floor
500 West Madison Street
Chicago, IL 60661

Tel: 312-707-8889
Fax: 312-707-9155

Attorneys for Resconi
(real party in interest
Montell Technology Company BV):

Stephen M. Haracz, Esq.
Warren K. MacRae, Esq.
BRYAN CAVE LLP
245 Park Avenue
New York, NY 10167-0034

Tel: 212-692-1871 (Haracz)
Tel: 212-692-1819

Fax: 212-692-1900
E-mail: sharacz@BRYANCAVELLP.COM
E-mail: wmacrae@bryancavellp.com