

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 77

Filed by: Trial Section Merits Panel
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

TROPIX, INC.

Junior Party,
(Application 09/059,373),

v.

LUMIGEN, INC.
(Hashem Akhavan-Tafti, Zahra Arghavani
Renuka Desilva and Kumar Thakur),

Senior Party
(Patent 5,721,370).

Patent Interference No. 104,459

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

McKELVEY, Senior Administrative Patent Judge.

JUDGMENT PURSUANT TO 37 CFR § 1.662

Upon consideration of the TROPIX REQUEST FOR ENTRY OF
ADVERSE JUDGMENT (Paper 75), it is

ORDERED that judgment on priority as to Counts 3 and 4, the sole counts in the interference, is awarded against junior party Irena Y. Bronstein and Brooks Edwards (real party in interest Tropix, Inc.).

FURTHER ORDERED that junior party Irena Y. Bronstein and Brooks Edwards (real party in interest Tropix, Inc.) is not entitled to a patent containing claims 37-39 (corresponding to Count 3) or claims 37-40 and 42 (corresponding to Count 4) of application 09/059,373, filed 14 April 1998.

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Upon consideration of the TROPIX SUBMISSION OF SETTLEMENT AGREEMENT (Paper 76),

ORDERED that receipt is acknowledged of the filing of the agreement.

FURTHER ORDERED that the agreement will be kept separate from the interference file. 35 U.S.C. § 135(c).

FRED E. MCKELVEY, Senior)
Administrative Patent Judge)
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RICHARD E. SCHAFER) BOARD OF PATENT
Administrative Patent Judge) APPEALS AND
) INTERFERENCES
)
_____))
JAMESON LEE)
Administrative Patent Judge)

104,459
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