

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 33

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

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

SEVUGAN PALANIAPPAN, CHARLES E. SIZER and RAWN P. WALLEY

Junior Party,
(Patent 5,792,498),

v.

DAVID D. ALBRECHT

Senior Party
(Application 09/002,323).

Patent Interference No. 104,474

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(c)

Upon consideration of the PALANIAPPAN PARTY'S DISCLAIMER UNDER 35 U.S.C. § 253 (Paper 32), in which all claims (1-25) of the Palaniappan patent involved in the interference are disclaimed, it is

ORDERED that judgment on priority as to Count 1, the sole count in the interference, is awarded against junior party SEVUGAN PALANIAPPAN, CHARLES E. SIZER and RAWN P. WALLEY. 37 CFR § 1.662(c); Guinn v. Kopf, 96 F.3d 1419, 40 USPQ 1157 (Fed. Cir. 1996).

FURTHER ORDERED that judgment on priority as to Count 1 is awarded in favor of senior party DAVID D. ALBRECHT.

FURTHER ORDERED that, on the record before the Board of Patent Appeals and Interferences, senior party DAVID D. ALBRECHT is entitled to a patent containing claims 1-5 and 28-57 (corresponding to Count 1) of application 09/002,323, filed 2 January 1998.

FURTHER ORDERED that junior party SEVUGAN PALANIAPPAN, CHARLES E. SIZER and RAWN P. WALLEY is not entitled to a patent containing claims 1-25 (corresponding to Count 1) of U.S. Patent 5,792,498, granted 11 August 1998, based on application 08/804,527, filed 21 February 1997.

FURTHER ORDERED that if there is a settlement agreement, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661.

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)

104,474

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