

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 149

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

ANDREW R. LEOPOLD,

Junior Party,¹

v.

CHRISTINE D. ENGER,

Senior Party.²

Patent Interference No. 103,258

JUDGMENT

METZ, PATE, and MARTIN, Administrative Patent Judges.

¹ Patent No. 5,154,725, issued October 13, 1992, based on Application 07/712,088, filed June 7, 1991. Assigned to Advanced Cardiovascular Systems, Inc. Accorded benefit of: None.

² Application 08/095,036, filed July 20, 1993. Assigned to Canon Kabushiki Kaisha, Ltd., Japan. Accorded benefit of the following U.S. applications (all abandoned): 07/999,589, filed December 30, 1992; 07/759,107, filed September 6, 1991; 07/618,531, filed November 26, 1990; and 07/303,803, filed January 30, 1989.

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MARTIN, Administrative Patent Judge.

In accordance with the "Concession of Priority by Leopold as to Count 2", which is the sole count in the interference, judgment as to the subject matter of the count is hereby entered against Leopold's claims that correspond to the count (i.e., patent claims 1-11), which means Leopold is not entitled to a patent containing those claims. Judgment is therefore awarded in favor of Enger's claims that correspond to the count (i.e., application claims 35 and 40-42), which means Enger is entitled to a patent containing those claims.

We note that Leopold has also filed a paper disclaiming the remaining term of all of the claims of his involved patent.

It should not be assumed the examiner has reviewed

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the motions in the interference file to determine whether they cite any evidence material to the patentability of Enger's claims.

OF
APPEALS

_____))
ANDREW H. METZ)
Administrative Patent Judge))
BOARD

_____)) PATENT

WILLIAM F. PATE, III)) AND
Administrative Patent Judge)) INTERFERENCES

_____))
JOHN C. MARTIN)
Administrative Patent Judge)

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