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Paper 17

Filed by: Trial Section 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

DAVID E. BACHSCHMID
and ROBERT C. SMALLWOOD

Junior Party
(Application 09/122,721),

v.

ROBERT C. SMALLWOOD

Senior Party
(Patent 5,914,826).

Patent Interference No. 104,632

Before SCHAFFER, GARDNER-LANE and MEDLEY, Administrative Patent Judges.

MEDLEY, Administrative Patent Judge.

JUDGMENT PURSUANT TO 37 CFR § 1.662

A telephone conference call was held on 27 September 2001, at approximately 1:00 p.m. (1300 hours E.S.T.), involving:

- (a) Daniel J. Chalker, Esq., counsel
for Smallwood;
- (b) Marshall M. Curtis, Esq., counsel
for Bachschmid; and
- (c) Sally C. Medley, Administrative
Patent Judge.

Counsel for Smallwood indicated that Smallwood requests adverse judgment against it. Counsel for Smallwood further indicated that a settlement agreement will be forthcoming. Counsel for Smallwood and counsel for Bachschmid confirmed that entry of an adverse judgment would be appropriate.

Upon consideration of the record, including the discussion during the conference call, it is

ORDERED that judgment on priority as to Counts 1-15 (Paper 1, pages 5-19) the counts in the interference, is awarded against senior party ROBERT C. SMALLWOOD.

FURTHER ORDERED that senior party ROBERT C. SMALLWOOD is not entitled to a patent containing claims 1-15 (corresponding to Counts 1-15 respectively) of U.S. Patent 5,914,826, granted 22 June 1999, based on application 08/885,027, filed 30 June 1997.

FURTHER ORDERED that a copy of this paper shall be made of record in files of application 09/122,721 and U.S. Patent 5,914,826.

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

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RICHARD E. SCHAFER))
Administrative Patent Judge))
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_____))
SALLY GARDNER-LANE) BOARD OF PATENT
Administrative Patent Judge) APPEALS AND
) INTERFERENCES
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_____))
SALLY C. MEDLEY))
Administrative Patent Judge))

cc (via facsimile and federal express)

Attorney for BACHSCHMID:

Marshall M. Curtis
McGUIRE WOODS, LLP
1750 Tysons Blvd.
Suite 1800
McLean, VA 22102

Tel: 703-712-5000
Fax: 703-712-5285

Attorney for SMALLWOOD:

Daniel Chalker
GARDERE, WYNNE, and SEWELL
1601 Elm Street
Suite 3000
Dallas, Texas 75201-4761

Tel: 214-999-3000
Fax: 214-999-4667