

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(2) is not binding precedent of the Board.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. 25

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

BJORN A. NEXO and BOEL ESPER,

Junior Party,¹

v.

SHUJI YAMAMOTO and KOJI SUZUKI,

Senior Party.²

¹Application 08/274,131, filed July 12, 1994. Accorded benefit of Applications 08/150,571, filed November 10, 1993, now abandoned; 07/932,460, filed August 20, 1992, now abandoned; 07/447,955, filed December 8, 1989, now abandoned; and Danish application DK2990/87, filed June 12, 1987; and PCT Application PCT/DK88/00089, filed June 9, 1988. Assigned to NOVO NORDISK A/S, Denmark.

²Application 08/181,458, filed January 14, 1994. Accorded benefit of Applications 07/908,887, filed July 7, 1992, now abandoned; 07/243,297 filed August 17, 1988, now abandoned; and PCT/JP88/00011, filed January 8, 1988; and Japanese Applications 62-144081, filed June 11, 1987; and 62-305878, filed December 4, 1987. Assigned to ASAHI KASEI KOGYO KABUSHIKI KAISHA, Osaka, Japan.

Interference No. 103,783

Patent Interference No. 103,783

Before CALVERT, PATE, and HANLON, Administrative Patent Judges.

HANLON, Administrative Patent Judge.

JUDGMENT UNDER 37 CFR § 1.602(a)

Junior party Nexo et al. has failed to make any showing why judgment should not be entered against it in this proceeding, and the time set for filing such a showing has expired. Therefore, pursuant to the Order to Show Cause of November 17, 1998 (Paper No. 23), the following judgment is hereby entered (37 CFR § 1.602(a)).

Judgment as to Count 1, the sole count in issue, is entered against the junior party, Bjorn A. Nexo and Boel Esper, on the ground of priority of invention. Bjorn A. Nexo and Boel Esper are not entitled to a patent containing claims 4-9, 16, 36, 37, 39, 40, 43-81 of Application 08/274,131, filed July 12, 1994, which correspond to Count 1.

Judgment as to Count 1 is awarded in favor of the senior party, Shuji Yamamoto and Koji Suzuki. On the record before

Interference No. 103,783

the Patent and Trademark Office in this interference, Shuji Yamamoto and Koji Suzuki are entitled to a patent containing claims 33-49

Interference No. 103,783

of Application 08/181,458, filed January 14, 1994, which correspond to Count 1.

The unopened preliminary statement filed by senior party Shuji Yamamoto and Koji Suzuki is returned herewith to the senior party. 37 CFR § 1.631(c).

IAN A. CALVERT)	
Administrative Patent Judge)	
)	
)	
)	
)	BOARD OF PATENT
WILLIAM F. PATE, III)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
)	
)	
)	
ADRIENE LEPIANE HANLON)	
Administrative Patent Judge)	

ALH:svt

Interference No. 103,783

Attorneys for Nexo et al.:

David R. Francescani, Esquire
Darby & Darby
805 Third Avenue
New York, NY 10022

Attorneys for Yamamoto et al.:

Birch, Stewart, Kolasch & Birch, LLP
P.O. Box 747
Falls Church, VA 22040-0747