

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 25

Filed by:

Merits Panel
Interference Trial Section
Board of Patent Appeals and Interferences
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
Tel: 703-308-9797
Fax: 703-305-0942

Filed: May 27, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
(Administrative Patent Judge James T. Moore)

DANIEL ROBERT **HENDERSON** and
ERIC RUDOLPH SCHUUR

Junior Party,
U.S. Patent 5,698,443
U.S. Patent 5,871,726

v.

RICHARD J. **GREGORY** and
WHEI-MEI HUANG

Senior Party
U.S. Application 09/215,644

Patent Interference No. 105,062 (JTM)

Before TORCZON, TIERNEY and MOORE, Administrative Patent Judges.

MOORE, Administrative Patent Judge.

JUDGMENT PURSUANT TO 37 CFR § 1.662

Upon consideration of Paper 23 (Gregory Request for Adverse Judgment), it is hereby:

ORDERED that judgment on priority as to Count 1 (Paper 1, page 5), the only count in the interference, is awarded against senior party RICHARD J. GREGORY and WHEI-MEI HUANG.

FURTHER ORDERED that senior party RICHARD J. GREGORY and WHEI-MEI HUANG is not entitled to a patent containing claims 19-24 (corresponding to Count 1) of application 09/215,644.

FURTHER ORDERED that a copy of this paper shall be made of record in files of application 09/215,644 and patents 5,698,443 and 5,871,726.

FURTHER ORDERED that if there is a settlement agreement, attention is directed to 35 U.S.C. § 135(c), 37 CFR § 1.661, and 37 CFR §1.666.

_____)	
RICHARD TORCZON)	
Administrative Patent Judge)	
)	
)	
_____)	BOARD OF PATENT
MICHAEL P. TIERNEY)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
_____)	
JAMES T. MOORE)	
Administrative Patent Judge)	

cc: (Via Fax and US Mail)

Attorneys for Henderson et al.

Steven B. Kelber
PIPER RUDNICK LLP
1200 Nineteenth Street NW
Washington, DC 20036-2430
Telephone: (202) 861-3900
Fax: (202) 223-2085
Attorney Docket No. 306229-70

Linda R. Judge
Cell Genesys, Inc.
500 Forbes Blvd.
South San Francisco CA US 94080
Telephone: 650-266-2922
Fax: 650-266-2940

Attorney for Gregory et al.

Steven W. Parmelee
TOWNSEND and TOWNSEND and CREW, LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834
Telephone: 206-467-9600
Fax: (415) 576-0300