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Filed:
November 19, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT KAUFMAN, GARY C. DOWNES,
and
DANIEL J. GRAMAROSSA
Junior Party
(Patent 6,197,182),

v.

HOMAYOUN TALIEH
and
BULENT BASOL
Senior Party
(Application 10/093,185).

Patent Interference No. 105,233 (JTM)

Before: McKELVEY, Senior Administrative Patent Judge, and SCHAFER and MOORE,
Administrative Patent Judges.

MOORE, Administrative Patent Judge.

JUDGMENT - RULE 127(b)(3)

The parties have filed Paper 21, styled "Joint Request Terminating Interference proceeding No. 105,233 and Contingent Stipulation to Extend Deadline For Time Period 1."

Within the settlement agreement enclosed with Paper 21 the following paragraph appears:

2. Priority Junior Party concedes priority with respect to the patent claims in Senior Party's Application over Junior Party's Patent. In other words, Junior Party concedes that priority of invention is to be granted to Senior Party's Application over Junior Party's Patent. Junior Party's concession is limited to the patent claims subject to the Interference Proceeding, which patent claims are claims 1-28 of Junior Party's Patent.

This paragraph is construed by the Board to be a request for adverse judgment pursuant to 37 CFR §41.127(b)(3) [formerly 37 CFR §1.662(a)]. Accordingly, the request for adverse judgment is **GRANTED**.

Two other issues arise from the filing of this document.

First, the parties should be aware of the provisions of 37 CFR §41.205(c) [formerly 37 CFR §1.666(b)] pertaining to settlement agreements and requests to keep separate from the interference file. As the agreement forms an integral part of the "joint request" in this instance, it shall be maintained as part of the interference file.

Second, the quoted paragraph 2 above does not negate the effects of 37 CFR §41.127 [formerly 37 CFR §1.658(c)] regarding interference estoppel.

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 junior party ROBERT KAUFMAN, GARY C. DOWNES, and DANIEL J. GRAMAROSSA.

FURTHER ORDERED that junior party ROBERT KAUFMAN, GARY C. DOWNES, and DANIEL J. GRAMAROSSA is not entitled to a patent containing claims 1-28 of patent 6,197,182.

FURTHER ORDERED that a copy of this paper shall be made of record in files of application 10/093,185 and patent 6,197,182.

_____)	
FRED E. McKELVEY)	
Senior Administrative Patent Judge)	
)	
)	
)	
_____)	BOARD OF PATENT
RICHARD E. SCHAFER)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
_____)	
JAMES T. MOORE)	
Administrative Patent Judge)	

November 19, 2004
Alexandria, VA

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