

**THIS DOCUMENT WAS NOT WRITTEN FOR PUBLICATION  
and is not binding precedent of the Board**

Paper 41

Filed by: Sally Gardner-Lane  
Administrative Patent Judge  
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

---

KENNETH A. BARTON  
and PAUL F. UMBECK

Junior Party,  
(Patent 5,608,142),

v.

DOUGLAS RICE,  
NADINE CAROZZI, DAVID M. ANDERSON,  
KANNIAH RAJASEKARAN, THIRUMALE S. RANGAN,  
RICHARD L. YENOFISKY, RICHARD LOTSTEIN,  
and ANNICK DE FRAMOND

Senior Party,  
(Application 08/218,697).

---

Patent Interference No. 104,498

---

**JUDGMENT PURSUANT TO 37 CFR § 1.662**

Rice has filed a paper entitled "RICE COMMUNICATION" (Paper 40). Rice states that it "hereby expressly abandons Application No. 08/218,697 and thereby requests an adverse judgment in the above-captioned interference." The Rice communication is treated as an express abandonment of the Rice involved application under

37 CFR §1.138 and as a request for adverse judgment under 37 CFR §1.662(a).

Upon consideration of the record of the interference, it is ORDERED that judgment on priority as to Count 1, the sole count in the interference, is awarded against senior party DOUGLAS RICE, NADINE CAROZZI, DAVID M. ANDERSON, KANNIAH RAJASEKARAN, THIRUMALE S. RANGAN, RICHARD L. YENOFSKY, RICHARD LOTSTEIN, and ANNICK DE FRAMOND;

FURTHER ORDERED that senior party, DOUGLAS RICE, NADINE CAROZZI, DAVID M. ANDERSON, KANNIAH RAJASEKARAN, THIRUMALE S. RANGAN, RICHARD L. YENOFSKY, RICHARD LOTSTEIN, and ANNICK DE FRAMOND, is not entitled to a patent containing claims 85-92 and 95-107, which correspond to Count 1;

FURTHER ORDERED that a copy of this decision be given a paper number and be entered in the administrative records of Barton's 07/299,767 application and Rice's 08/218,697 application.

<u>RICHARD TORCZON</u>	)	
Administrative Patent Judge	)	
	)	
	)	
	)	
	)	
<u>SALLY GARDNER-LANE</u>	)	BOARD OF PATENT
Administrative Patent Judge	)	APPEALS AND
	)	INTERFERENCES
	)	
	)	
<u>CAROL SPIEGEL</u>	)	

Administrative Patent Judge )

cc: (via facsimile and first class mail)

Counsel for Barton(real party in interest,  
Pharmacia Corporation)

Steven L. Highlander  
Richard A. Nakashima  
Fulbright & Jaworski, L.L.P.  
2400 One American Center  
600 Congress Ave.  
Austin, TX 78701

Tel: 512-418-3184 (Highlander)  
Tel: 512-418-3032 (Nakashima)  
Fax: 512-474-7577

Counsel for Rice (real party in interest,  
Novartis Finance Corporation)

Dimitrios T. Drivas  
Leslie Morioka  
John P. Scheibeler  
Louis S. Silvestri  
1155 Ave. of the Americas  
New York, NY 10036

Tel: 212-819-8200  
Fax: 212-354-8113