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Paper 130

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

CHRISTOPHER R. SOMERVILLE,
YVES POIRIER, and DOUGLAS E. DENNIS,

Junior Party,
(Patent 5,650,555)

v.

OLIVER P. PEOPLES
and ANTHONY J. SINSKEY,

Senior Party,
(Application 08/922,007).

Patent Interference No. 104,499

Before TORCZON, SPIEGEL, and GARDNER-LANE, Administrative Patent Judges.

GARDNER-LANE, Administrative Patent Judge.

JUDGMENT PURSUANT TO 37 CFR § 1.662

Peoples has filed a paper entitled "PEOPLES REQUEST FOR ADVERSE JUDGMENT" (Paper 125).

Peoples states that it requests that adverse judgment be entered against it with respect to Count 1. The Peoples statement is treated as a request for adverse judgment under

37 CFR § 1.662(a).

Somerville has filed a paper entitled "SOMERVILLE, POIRIER, and DENNIS SUBMISSION PURSUANT TO ORDER DATED MARCH 22, 2001" (Paper 128). Attached to the paper is an arbitrator's decision. Somerville asks that judgment be entered against Peoples pursuant to the arbitrator's decision. Somerville states that the arbitrator's decision "confirm[s] cancellation of Peoples and Sinskey's claims 34 to 37 and 42" (Paper 128 at 1); however, the arbitrator denied Peoples preliminary motion 3 seeking to cancel claims 34 to 37 and 42 (arbitrator's decision at 54). Accordingly, claims 34 to 37 and 42 remain in the interference and correspond to Count 1 (see Paper 1 at 47).

Somerville has filed a paper entitled "SOMERVILLE, POIRIER, and DENNIS SUBMISSION OF INFORMATION IN CONNECTION WITH THE CONCLUSION OF THE INTERFERENCE" (Paper 129). Neither party has shown that the information contained in the paper filed by Somerville has any bearing on the judgment entered below.

ORDER

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 OLIVER P. PEOPLES and ANTHONY J. SINSKEY;

FURTHER ORDERED that senior party OLIVER P. PEOPLES and ANTHONY J. SINSKEY, is not entitled to a patent containing claims 34 to 37 and 42 of application 08/922,007, which correspond to Count 1; and

FURTHER ORDERED that a copy of this decision be given a paper number and be entered in the administrative records of Somerville's 5,650,555 patent and Peoples' 08/922,007 application.

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

cc (via facsimile and first class mail):

Counsel for Somerville
(real party in interest: The Board of Trustees operating
Michigan State University,
exclusive licensee: The Procter and Gamble Company):

Joel M. Freed, Esq.
David R. Marsh, Esq.
ARNOLD & PORTER
555 Twelfth Street, N.W.
Washington, D.C. 20004-1206

Tel: 202-942-5000
Fax: 202-942-5999
E-mail: None

Counsel for Peoples
(real party in interest: Massachusetts Institute of Technology
exclusive licensee: Metabolix, Inc.):

Patrea L. Pabst
HOLLAND & KNIGHT
2000 One Atlantic Center
1201 West Peachtree St.
Atlanta, GA 30309-3400

Tel: 404-817-8473
Fax: 404-817-8588
E-mail: None

Gordon Kit
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
2100 Pennsylvania Ave., N.W.
Washington, D.C. 20037-3202

Tel: 202-293-7060
Fax: 202-293-7860
E-mail: gkit@sughrue.com