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Paper 42

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Administrative Patent Judge
Box Interference
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

RALPH T. KUBO,
HOWARD M. GREY, ALESSANDRO SETTE,
and ESTEBAN CELIS

Junior Party,
(Patent 5,662,907),

v.

THIERRY BOON,
PIERRE van der BRUGGEN,
ETIENNE DE PLAEN, CHRISTOPHE LURQUIN,
and CATIA TRAVERSARI

Senior Party,
(Application 08/571,263).

Patent Interference No. 104,541

JUDGMENT PURSUANT TO 37 CFR § 1.662

Kubo has filed a paper entitled "KUBO'S CONCESSION OF PRIORITY" (Paper 40). Kubo states that it "concedes priority to Party Boon et al. and requests that adverse judgment in favor of Party Boon et al. be entered in the above-captioned matter."

Boon has filed a request for a six month stay of the entry of judgment in the interference (Paper 41). According to Boon, the parties "expect to continue negotiations into the future

relating to a possible license agreement" and may be required to file the agreement before termination of the interference. 37 CFR §1.666(a). Note that after final decision by the Board, the interference is considered terminated when no appeal (35 USC §141) or other review (35 USC §146) has been or can be taken or had. 37 CFR §1.661.

A delay in the judgment is not consistent with securing the just, speedy, and inexpensive determination of the interference. 37 CFR §1.601. Furthermore, a delay in the judgment may extend the patent term of any patent that issues on Boon's application. 37 CFR §1.701(a)(1). In the present instance, a term extension would not appear to be in the public interest.

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 junior party RALPH T. KUBO, HOWARD M. GREY, ALESSANDRO SETTE, and ESTEBAN CELIS;

FURTHER ORDERED that junior party, RALPH T. KUBO, HOWARD M. GREY, ALESSANDRO SETTE, and ESTEBAN CELIS, is not entitled to a patent containing claims 13 and 14 of patent 5,662,907, which correspond to Count 1;

FURTHER ORDERED that Boon's request for delay of judgment in the interference is DENIED;

FURTHER ORDERED that a copy of this decision be given a paper number and be entered in the administrative records of Kubo's 08/186,266 application and Boon's 08/571,263 application.

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JAMESON LEE)	
Administrative Patent Judge)	
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SALLY GARDNER-LANE)	INTERFERENCES
Administrative Patent Judge)	
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MICHAEL TIERNEY)	
Administrative Patent Judge)	

cc (via facsimile and first class mail):

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