

BHS

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 31

Filed by: Interference Trial Section Merits Panel  
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26 February 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

FAXED

FEB 26 2002

IRA SANDERS and CHRISTOPHER M. SHAARI,

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Junior Party,  
(Patent 5,766,605),

v.

K. ROGER AOKI, MICHAEL W. GRAYSTON,  
STEVEN R. CARLSON and JUDITH M. LEON,

Senior Party,  
(Application 08/627,118).

Patent Interference No. 104,688

Before: SCHAFER, LEE and TIERNEY, Administrative Patent Judges.  
SCHAFER, Administrative Patent Judge.

**JUDGMENT UNDER 37 CFR § 1.662(a)**

Contingent on the Grant of the parties' Joint Preliminary Motion 1, Sanders has conceded priority as to the subject matter of Count 2. Paper 17. Also contingent on the granting of Joint Preliminary Motion 1, Aoki concedes priority as to the subject matter of Count 3. Paper 18. Joint Preliminary Motion 1 was granted. Paper 29. Accordingly, the concessions of priority are construed as a request for entry of adverse judgment under 37 CFR § 1.667(a). Accordingly, it is--

ORDERED that judgment on priority as to the subject matter of Count 2 (Paper 30, p. 1) is awarded against the junior party, IRA SANDERS and CHRISTOPHER M. SHAARI;

FURTHER ORDERED that junior party, IRA SANDERS and CHRISTOPHER M. SHAARI, is not entitled to a patent containing claims 1 and 13-18 (corresponding to Count 2) of Patent 5,766,605;

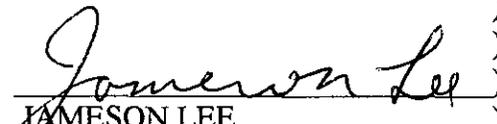
FURTHER ORDERED that judgment on priority as to the subject matter of Count 3 (Paper 30, p. 2) is awarded against senior party, K. ROGER AOKI, MICHAEL W. GRAYSTON, STEVEN R. CARLSON and JUDITH M. LEON;

FURTHER ORDERED that senior party, K. ROGER AOKI, MICHAEL W. GRAYSTON, STEVEN R. CARLSON and JUDITH M. LEON, is not entitled to a patent containing claims 60-71 (corresponding to Count 3) of Application 08/627,118;

FURTHER ORDERED that a copy of this judgment be made of record in Application 08/627,118 and Patent 5,766,605; and

FURTHER ORDERED that if there is any settlement agreement which has not been filed, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661.

  
RICHARD E. SCHAFER )  
Administrative Patent Judge )

  
JAMESON LEE )  
Administrative Patent Judge )

  
MICHAEL P. TIERNEY )  
Administrative Patent Judge )

BOARD OF PATENT  
APPEALS AND  
INTERFERENCES

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