

BKS

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 19

Filed by: Trial Section Motions Panel
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

FAXED

MAY 10 2002

KURT DIETLIKER, MARTIN KUNZ,
HITOSHI YAMATO, CHRISTOPH DE LEO
Junior Party,
(U.S. Application 09/242,145)

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

v.

KATSUMI OOMORI, HIDEO HADA,
FUMITAKE-KANEKO, MITSURU SATO, KAZUFUMI SATO,
TOSHIMASA NAKAYAMA
Senior Party
(U.S. Patents 5,976,760 and 6,245,930).

Patent Interference No. 104,758

Before: GARDNER-LANE, MEDLEY and TIERNEY, Administrative Patent Judges.

TIERNEY, Administrative Patent Judge.

JUDGEMENT

(Pursuant to 37 CFR § 1.662(a))

A telephone conference call was held on May 9, 2002, at approximately 2:30 p.m.,
involving:

1. Michael P. Tierney, Administrative Patent Judge ("APJ").
2. David R. Crichton, counsel for Junior Party Dietliker.
3. Matthew Jacob, counsel for Senior Party Oomori.

During the conference call the Junior Party Dietliker indicated that it was abandoning the contest. We note that Oomori has filed a motion under 37 CFR § 1.633(f) (Paper No. 18) requesting benefit of its Japanese priority applications 8-195100, filed July 24, 1996 and 9-011580, filed January 24, 1997. In light of Dietliker's abandonment of the contest, this motion is moot.

It is:

ORDERED that judgment on priority to Count 1 (Notice Declaring Interference, Paper No. 1, page 6), the sole count in the interference, is awarded against Junior Party Dietliker.

FURTHER ORDERED that Junior Party Dietliker is not entitled to a patent containing claims 1-4, 7-14, 19 and 22-23 of Dietliker, U.S. Application No. 09/242,145.

FURTHER ORDERED that a copy of this final decision shall be placed and given a paper number in the files of Oomori, U.S. Patents 5,976,760 and 6,245,930 and Dietliker, U.S. Application No. 09/242,145.

FURTHER ORDERED that Oomori's motion under 37 CFR 1.633(f) (Paper No. 18) is *moot*.

cc (via Facsimile):

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