

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 126

By: Trial Section Merits Panel
Board of Patent Appeals and Interferences
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Filed:
30 June 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

GENCELL S.A.
Junior Party
U.S. Patent 6,127,175

v.

QING WANG, MITCHELL H. FINER and XIAO-CHI JIA
Junior Party,
Application 08/333,680

v.

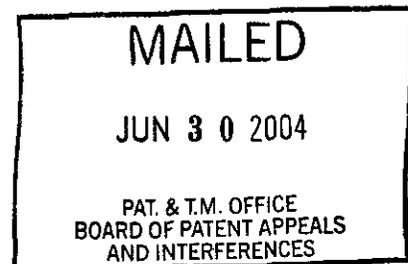
GENCELL S.A.
Senior Party
Application 08/397,225

Patent Interference No. 104,830 (CAS)

Before: SCHAFFER, TORCZON and SPIEGEL, Administrative Patent Judges.

SPIEGEL, Administrative Patent Judge.

JUDGMENT - RULE 640



I. Order

Therefore, pursuant to the "Order to Show Cause" dated February 25, 2004 (Paper 118) and in view of the "Decision on Preliminary Motions" dated February 25, 2004 (Paper 116), the "Order Redeclaring Interference" dated February 25, 2004 (Paper 117), the "Order" suspending final judgment against Vigne/Gencell as to Counts 3 and 7 and against Perricaudet/Gencell as to Count 8 dated April 2, 2004 (Paper 120), the "Decision on Rehearing" dated May 21, 2004 (Paper 125), and the "Decision on Order to Show Cause" dated May 21, 2004 (Paper 126), it is

ORDERED that judgment on priority as to Counts 3 and 7 (Paper 117, pp. 2-6) is awarded against junior party EMMANUELLE VIGNE, MICHEL PERRICAUDET, JEAN-FRANÇOIS DEDIEU, CÉCILE ORSINI, PATRICE YEH, MARTINE LATTA and EDOUARD PROST (Vigne/Gencell).

FURTHER ORDERED that junior party EMMANUELLE VIGNE, MICHEL PERRICAUDET, JEAN-FRANÇOIS DEDIEU, CÉCILE ORSINI, PATRICE YEH, MARTINE LATTA and EDOUARD PROST (Vigne/Gencell) is not entitled to a patent containing

(i) claim 33 (corresponding to Count 3) and

(ii) claims 1-6, 11-16, 20-21 and 23-25 (corresponding to Count 7)

of U.S. Patent 6,127,175, issued October 3, 2000, based on U.S. application 08/875,223, filed July 17, 1997.¹ (Paper 117, pp. 2-6).

¹ Vigne claims 7-10, 17-19, 22 and 26-32 do not correspond to any of Counts 3, 7 and 8 and, therefore, are not involved in the interference (Paper 117, p. 7).

FURTHER ORDERED that judgment on priority as to Count 8 (Paper 117, pp. 6-7) is awarded against junior party MICHEL PERRICAUDET, EMMANUELLE VIGNE and PATRICE YEH (Perricaudet/Gencell).

FURTHER ORDERED that MICHEL PERRICAUDET, EMMANUELLE VIGNE and PATRICE YEH (Perricaudet/Gencell) is not entitled to a patent containing claim 42 of U.S. application 08/397,225, filed March 28, 1995.² (Paper 117, pp. 6-7).

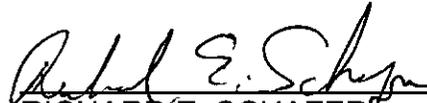
FURTHER ORDERED that judgment on priority as to Count 3 (Paper 117, pp. 2-6) is awarded against junior party QING WANG, MITCHELL H. FINER and XIAO-CHI JIA (Wang).

FURTHER ORDERED that junior party QING WANG, MITCHELL H. FINER and XIAO-CHI JIA (Wang) is not entitled to a patent containing claims 37-38, 46-47, 52, 54 and 56 of U.S. application 08/333,680, filed November 3, 1994.

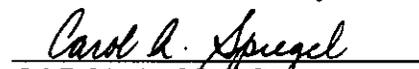
FURTHER ORDERED that a copy of this paper shall be made of record in the files of U.S. patent 6,127,175, U.S. application 08/333,680 and U.S. application 98/397,225.

² Perricaudet claims 1-3, 6, 9-30, 33 and 35-41 do not correspond to any of Counts 3, 7 and 8 and, therefore, are not involved in the interference (Paper 117, p. 7).

FURTHER ORDERED that if there is a 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


RICHARD TORCZON
Administrative Patent Judge


CAROL A. SPIEGEL
Administrative Patent Judge

) BOARD OF PATENT
) APPEALS AND
) INTERFERENCES

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(real party in interest
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Gencell/Vigne/Perricaudet
(real party in interest
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