

MAILED

Paper No. 201

Filed by: Merits Panel
Box Interference
Washington, D.C. 20231
Tel: 703-308-9797
Fax: 703-308-7953

MAY 25 2004

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

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

ANDREW SIMON CRAIG, VICTOR WITOLD JACEWICZ
and MICHAEL URQUHART
Junior Party¹

v.

FRANCISCUS BERNARDUS GEMMA BENNEKER, FRANS VAN DALEN,
JACOBUS MARIA LEMMENS, THEODORUS HENDRICUS ANTONIUM PETERS
and FRANTISEK PICHA
Senior Party²

Patent Interference No. 105,009

JUDGMENT - RULE 640

Before Metz, Gardner Lane and Moore, Administrative Patent Judges.

Metz, Administrative Patent Judge.

¹ Application 09/299,060, filed April 23, 1999, now U.S. Patent Number 6,063,927, issued on May 16, 2000, and U.S. Application Serial Number 09/469,902 filed on December 22, 1999. Said patent accorded benefit of U.S. Application Serial Number 09/299,060 and filed on April 23, 1999. Both said patent and application accorded benefit of U.K. Application Number 9902935.7, filed on February 10, 1999. Assigned to SmithKline Beecham PLC, .

² Application Serial Number 09/200,743, filed on November 30, 1998. Accorded benefit of U.S. Application Serial Number 08/872,023 and filed on June 10, 1997 and now U.S. Patent Number 5,874,447, issued on February 23, 1999. Assigned to Synthon BCT Technologies, L.L.C.

Interference No. 105,009

We found in our "DECISION ON PRELIMINARY MOTIONS" filed on even date with this judgment that the preliminary statement of Craig et al., the junior party, failed to overcome the effective filing date of Benneker et al., the senior party. Accordingly, it is appropriate to enter judgment against the junior party, Craig et al. It is

ORDERED that judgment as to the subject matter of Count 1, the sole count in this interference, is entered against Andrew Simon Craig, Victor Witold Jacewicz and Michael Urquhart, the junior party.

FURTHER ORDERED that Andrew Simon Craig, Victor Witold Jacewicz and Michael Urquhart, the junior party, are not entitled to claims 1 and 3 of their patent involved in this interference, U.S. Patent Number 6,063,927, and designated as corresponding to Count 1.

FURTHER ORDERED that Andrew Simon Craig, Victor Witold Jacewicz and Michael Urquhart, the junior party, are not entitled to a patent containing claims 155 through 203 of their application for patent involved in this interference, Serial Number 09/469,902, filed on December 22, 1999, and designated as corresponding to Count 1.

Interference No. 105,009

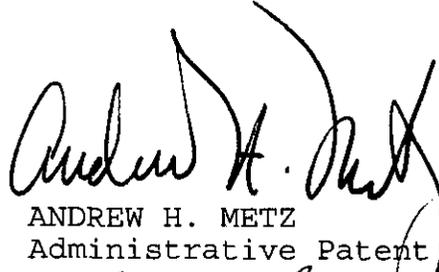
FURTHER ORDERED that judgment as to the subject matter of Count 1, the sole count in this interference, is awarded to Franciscus Bernardus Gemma Benneker, Frans Van Dalen, Jacobus Maria Lemmens, Theodorus Hendricus Antonium Peters and Frantisek Picha, the senior party.

FURTHER ORDERED that Franciscus Bernardus Gemma Benneker, Frans Van Dalen, Jacobus Maria Lemmens, Theodorus Hendricus Antonium Peters and Frantisek Picha, the senior party, are entitled to a patent containing claims 30 through 38 of their application for patent involved in this interference, application Serial Number 09/200,743, filed on November 30, 1998, and designated as corresponding to Count 1.

FURTHER ORDERED that if there is a settlement agreement, the parties attention is directed to the requirements of 35 U.S.C. § 135(c) and 37 C.F.R. § 1.666; and

Interference No. 105,009

FURTHER ORDERED that a copy of this judgment be filed in the respective involved applications and patent of the parties.


ANDREW H. METZ
Administrative Patent Judge)


SALLY GARDNER LANE) BOARD OF PATENT
Administrative Patent Judge) APPEALS AND
) INTERFERENCES


JAMES T. MOORE)
Administrative Patent Judge)

AHM/gjh

Interference No. 105,009

cc (via Federal Express):

Attorney(s) for Craig et al.

Herbert Mintz
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
1300 I Street N.W.
Suite 700
Washington, D.C. 20005-3315

Attorney(s) for Benneker et al.

Mark E. Waddell
CHADBOURNE & PARKE LLP
30 Rockefeller Plaza
New York, NY 10112