

The opinion in support of the decision is not binding precedent of the Board.

Paper 22

Filed by: Interference Trial Section Merits Panel
Box Interference
Washington, D.C. 20231
Tel: 703-308-9797
Fax: 703-305-0942

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

REDOX TECHNOLOGIES, INC.,
Junior Party,
(U.S. Application 08/567,564),

v.

DANIEL B. POURREAU, HAVEN S. KESLING, JR.
FRANK J. LIOTTA, JR. and JEFFREY M. McFARLAND
Senior Party
(U.S. Patent 5,371,298).



Patent Interference No. 105,011

Before: McKELVEY, Senior Administrative Patent Judge, and SCHAFER and TORCZON, Administrative Patent Judges.

SCHAFER, Administrative Patent Judge.

JUDGMENT - RULE 640

A panel of the Board has issued a decision holding all of the parties' involved claims unpatentable over prior art. Paper 21. Without any patentable claims there is no basis upon which to form a count suitable for determining priority and, therefore, no basis for proceeding to the priority phase of the interference. Accordingly, it is appropriate to enter judgment against both parties at this time.

It is

ORDERED that judgment as to the subject matter of Counts 1, 2 and 3 (Paper 1, p. 5) is awarded against Junior Party, REDOX TECHNOLOGIES, INC.;

FURTHER ORDERED that junior party, REDOX TECHNOLOGIES, INC., is not entitled to a patent containing claims 1, 4, 7, 8, 11, 14, and 15 (corresponding to Count 1); claims 2, 5, 9, 12, and 16 (corresponding to Count 2); or Claims 3, 6, 10, 13, and 17 (corresponding to Count 3) of Application 08/567,564;

FURTHER ORDERED that judgment as to the subject matter of Counts 1, 2 and 3, is awarded against the senior party, DANIEL B. POURREAU, HAVEN S. KESLING, JR., FRANK J. LIOTTA, JR. and JEFFREY M. McFARLAND;

FURTHER ORDERED that senior party, DANIEL B. POURREAU, HAVEN S. KESLING, JR., FRANK J. LIOTTA, JR. and JEFFREY M. McFARLAND, is not entitled to a patent containing claims 1, 4, and 5 (corresponding to Count 1); claims 2 and 6 (corresponding to Count 2); or Claims 3 and 7 (corresponding to Count 3) of Patent 5,371,298;

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

FURTHER ORDERED that a copy of the DECISION ON PRELIMINARY MOTION (Paper 21) and this JUDGMENT (Paper 22) be assigned paper numbers and be placed in the files of Patent 5,371,298 and Application 08/567,564.

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 FRED McKELVEY)
 Senior Administrative Patent Judge)
 _____)
Richard E. Schaffer
 RICHARD E. SCHAFER)
 Administrative Patent Judge)
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Richard Torczon
 RICHARD TORCZON)
 Administrative Patent Judge)

BOARD OF
PATENT
APPEALS AND
INTERFERENCES

cc (via FedEx):

John Kollar, Pro Se:

John Kollar
6 Spencer Court
Wyckoff, NJ 07481

Tel: 201-652-8770

Fax: 201-652-8770

Attorney for Pourceau:

Paul E. Crawford
CONNOLLY BOVE LODGE & HUTZ LLP
1220 Market Street
P. O. Box 2207
Wilmington, DE 19899

Tel: 302-658-9141

Fax: 302-658-5614