

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 21

Filed by: Interference Trial Section Merits Panel
Board of Patent Appeals and Interferences
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
Tel: 703-308-9797
Fax: 703-305-0942

Filed:
25 June 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

SUSAN L. McELROY
Junior Party,
(Patent 6,323,236),

v.

SCOTT P. HOOPES
Senior Party
(Application 09/494,988).

FAXED

JUN 25 2003

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

Patent Interference No. 105,079

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

SCHAFFER, Administrative Patent Judge.

JUDGMENT PURSUANT TO 37 CFR § 1.662

Hoopes has filed a paper requesting and agreeing to entry of an adverse judgment in this interference under 37 CFR § 1.662(a). Paper 20. Accordingly, it is

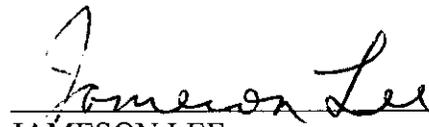
ORDERED that judgment on priority as to the subject matter of Count 1 (Paper 1, p. 5), is awarded against the senior party, SCOTT P. HOOPES;

FURTHER ORDERED that senior party, SCOTT P. HOOPES, is not entitled to a patent containing claims 1-10 (corresponding to Count 1) of Application 09/494,988;

FURTHER ORDERED that a copy of this judgment be made of record in Application 09/494,988; and Patent 6,323,236;

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) BOARD OF PATENT)
Administrative Patent Judge) APPEALS AND)
INTERFERENCES)


CAROL A. SPIEGEL)
Administrative Patent Judge)

Date: July 25, 2003
Arlington, VA

cc (via Fax):

Attorney for McElroy:

Karlyn A. Schnapp, Esq.
Stephen Albainy-Jenei, Esq.
Steven J. Goldstein, Esq.
Frost Brown Todd LLC
2200 PNC Center
201 East Fifth Street
Cincinnati, OH 45202
Tel: 513-651-6865
Fax: 513-651-6981

Attorney for Hoopes:

Frank S. DiGiglio, Esq.
Mark J. Cohen, Esq.
Mary A. Appolina, Esq.
Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City, New York 11530
Tel: 516-742-4343
Fax: 516-742-4366