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Paper 46
Filed: August 11, 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MICHEL H. KLEIN,
HEATHER A BOUX, STEPHEN A. COCKLE,
SHEENA M. LOOSMORE, and GAVIN R. ZEALEY,

Junior Party,
(Patent 5,085,862)

v.

MARIAGGRAZIA PIZZA,
ANTONELLA BARTOLONI, and RINO RAPPUOLI

Senior Party,
(Application 08/216,692).

Patent Interference No. 105,101

Before Torczon, Lane, and Moore, Administrative Patent Judges.

Lane, Administrative Patent Judge.

Judgment - Bd.R. 127

Time period 18, set as 8 August 2006, has passed and junior party Klein has not filed a motion for priority. (See Paper 44, Appendix and Paper 45).

It is appropriate to enter judgment against junior party Klein at this time. Bd.R. 127; Bd.R. 207(a).

Upon consideration of the record, it is

ORDERED that judgment on priority as to Count 1, the sole count of the interference, is awarded against junior party MICHEL H. KLEIN, HEATHER A BOUX, STEPHEN A. COCKLE, SHEENA M. LOOSMORE, and GAVIN R. ZEALEY;

FURTHER ORDERED that junior party MICHEL H. KLEIN, HEATHER A BOUX, STEPHEN A. COCKLE, SHEENA M. LOOSMORE, and GAVIN R. ZEALEY is not entitled to a patent containing claims 1, 2, 5-7, and 12-15 of patent 5,085,862, which claims correspond to Count 1, the sole count of the interference;

FURTHER ORDERED that, if there is a settlement agreement, the parties are directed to 35 U.S.C. 135(c) and Bd. R. 205; and

FURTHER ORDERED that a copy of this judgment shall be entered into the administrative records of Klein's 5,085,862 patent and Pizza's 08/261,692 application.

/ss/ Richard Torczon
RICHARD TORCZON
Administrative Patent Judge

/ss/ Sally Gardner Lane
SALLY GARDNER LANE
Administrative Patent Judge

/ss/ James T. Moore
JAMES T. MOORE
Administrative Patent Judge

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