

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 4

Filed by: Richard E. Schafer
Administrative Patent Judge
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:
19 June 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

ILYA OKUN and LEX OKUN,

Junior Party,
(Patent 6,096,509),

v.

JOHN W. PARCE, ANNE R. KOPF-SILL
and LUC J. BOUSSE,

Senior Party,
(Application 09/721,581).

Patent Interference No. 105,122

ORDER TERMINATING INTERFERENCE WITHOUT JUDGMENT

During a conference call on June 13, 2003, the undersigned was advised that at the time this interference was declared the involved Okun patent and Parce application were commonly assigned. A review of the PTO records indicates that on the date of the declaration both Okun's involved Patent and Parce's involved application were assigned to Caliper Technologies Corp. The assignment of Okun Patent 6,096,509 is recorded at Reel 013608, Frame 0817. The assignment of Parce Application 08/671,987, the grand-parent of Parce involved application 09/721,581 is recorded

FAXED

JUN 19 2003

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

at Reel 009029, Frame 0054. Parce's involved application is said to be is a continuation of Application 09/250,029 which is said to be a continuation of Application 08/671,987. The assignment of the subject matter of a parent application is considered to be the assignment of the commonly disclosed subject matter of continuing applications. MPEP § 306.

The interference rules provide that in the absence of good cause, an interference will not be declared or continued between a commonly assigned application and unexpired patent:

§ 1.602 Interest in applications and patents involved in an interference.

(a) Unless good cause is shown, an interference shall not be declared or continued between (1) applications owned by a single party or (2) applications and an unexpired patent owned by a single party.

Since the involved application and patent were commonly assigned prior to the declaration, this interference was improvidently declared. The parties may treat the effect of the declaration as a nullity.

IT IS ORDERED that this interference be terminated without judgment.


Richard E. Schafer
Administrative Patent Judge

Date: 6/19/03
Arlington, VA

cc (via Fax):

Counsel for OKUN:

KNOBBE MARTENS OLSON & BEAR LLP
2040 Main Street, Fourteenth Floor
Irvine, CA 92614

Tel: 714-760-0404
Fax: 949-760-9502

Counsel for PARCE:

Linda E. Alcorn, Esq.
STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 New York Avenue, N.W.
Washington, D.C. 20005-3934

Tel: 202-371-2600
Fax: 202-371-2540