

UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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Patent Interference No. 105,128

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**SCRIPPS RESEARCH INSTITUTE**

(5,622,931),  
Junior Party,

v.

**YALE NEMERSON**  
and **WILLIAM H. KONIGSBERG**  
(08/297,581 and 08/473,262),  
Senior Party.

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Entered: 25 May 2005

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**Judgment - Bd. R. 127(b) - Requested**

Before TORCZON, MEDLEY, and POTEATE, Administrative Patent Judges.

TORCZON, Administrative Patent Judge.

In a conference call with the parties on 18 May 2005, Scripps stated that it would not contest priority. This statement is treated as a request for adverse judgment.

Bd.R. 127(b). Consequently, judgment is entered against all of Scripps' involved claims.

Consistent with the decision in Paper 99, judgment is also entered against specific

Nemerson claims. Nemerson filed the amendment authorized in Paper 99 to overcome one basis for unpatentability.

DECIDED that judgment on priority be entered against Scripps for the subject matter of the count;

FURTHER DECIDED that Scripps' patent claims 1 and 2 be canceled;

FURTHER DECIDED that Nemerson's 08/473,262 application claims 33 and 34 be held unpatentable;

FURTHER DECIDED that Nemerson's 08/297,581 application claims 15, 45, and 47 be held unpatentable;

FURTHER DECIDED that Nemerson's amendment of 08/473,262 application claim 36 (Paper 101) be entered into the record of the 08/473,262 application; and

FURTHER DECIDED that a copy of this judgment be entered in the administrative records of Nemerson's 08/297,581 and 08/473,262 applications and Scripps' 5,622,931 patent.

cc (via electronic mail):

For Scripps Research Institute: **Talivaldis Cepuritis** and **Dolores T. Kenney**, OLSON & HIERL, LTD. of Chicago, Illinois.

For Nemerson: **Patrea L. Pabst**, PABST PATENT GROUP LLP of Atlanta, Georgia.

**Notice:** Agreements and understandings regarding the termination of an interference are subject to filing requirements under 35 U.S.C. 135(c).

**Notice:** In the event of judicial review, note the requirements of Bd. R. 8(b).