

MAIL STOP INTERFERENCE  
ALEXANDRIA VA 22313-1450  
703-308-9797  
703-305-0942 (fax)

Paper 17

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

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**SCHERING CORPORATION**  
(08/799,028),  
Junior Party,

v.

**SHIONOGI & CO, LTD.**  
(09/043,861),  
Senior Party.

**FAXED**

**FEB - 3 2004**

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

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Interference No. 105,185

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Before SCHAFER, TORCZON, and LANE, Administrative Patent Judges.

PER CURIAM.

**JUDGMENT**  
(PURSUANT TO 37 CFR § 1.662(a))

Schering advises (Paper 16) that it:

does not wish to proceed with the above-captioned interference.  
Accordingly, Schering will not file any additional papers or take any further  
action with respect to this interference.

This statement qualifies as an abandonment of the contest within the meaning of  
37 C.F.R. § 1.662(a).

**ORDER**

Upon consideration of Schering's abandonment of the contest, it is:

**ORDERED** that judgment on priority as to Count 1 is awarded against junior  
party Schering Corp.;

FURTHER ORDERED that junior party Schering Corp. is not entitled to a patent containing claims 36-40 and 50-53 of Schering Corp.'s 08/799,028 application, which correspond to one or both of counts 1 and 2;

FURTHER ORDERED that this interference be remanded to the administrative patent judge designated to handle the interference for further action not inconsistent with this decision; and

FURTHER ORDERED that a copy of this decision be entered in the administrative record of Schering Corp.'s 08/799,028 patent application and of Shionogi & Co., Ltd.'s 09/043,861 application.

  
RICHARD E. SCHAFER  
Administrative Patent Judge

  
RICHARD TORCZON  
Administrative Patent Judge

  
SALLY GARDNER LANE  
Administrative Patent Judge

BOARD OF  
PATENT  
APPEALS AND  
INTERFERENCES  
  
INTERFERENCE  
TRIAL SECTION

cc (facsimile):

For Schering Corporation: **Immac J. Thampoe** and **Michael G. Biro** of SCHERING-  
PLOUGH CORPORATION (Fax: 908-298-5388).

For Shionogi & Co., Ltd.: **Stephen B. Maebius** and **George E. Quillen** of FOLEY &  
LARDNER (Fax: 202-672-5399).

**Notice:** Any agreement or understanding between parties to this interference, including any collateral agreements referred to therein, made in connection with or in contemplation of the termination of the interference, shall be in writing and a true copy thereof filed in the United States Patent and Trademark Office before termination of the interference as between said parties to the agreement or understanding. 35 U.S.C. 135(c); 37 C.F.R. § 1.661.

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