

The opinion in support of the decision being entered today is not binding precedent of the Board

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Paper No. 63

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

DEREK L. DAVIS

Junior Party,
(Patent No. 5,805,706)¹

v.

MAKOTO SAITO

Senior Party
(Application 09/097,877)²

Patent Interference No. 105,229

Before LEE, MEDLEY and NAGUMO, Administrative Patent Judges.

LEE, Administrative Patent Judge.

¹ Based on Application 08/633,581, filed April 17, 1996. The real party in interest is Intel Corporation.

² Filed June 15, 1998. Accorded the benefit of Patent 5,867,579, based on Application 08/779,751, filed February 2, 1999; Patent 6,128,605, based on Application 08/882,909, filed October 3, 2000; Application 08/549,270, filed October 27, 1995; Japanese Application 6-299835, filed December 2, 1994; and Japanese Application 6-264200, filed October 27, 1994. The real party in interest is Intarsia Software LLC. (Paper No. 46).

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Judgment – Bd. Rule 127(b)

Senior party Saito has requested entry of adverse judgment (Paper No. 58) with respect to the subject matter of Counts 1, 3 and 4, which are all of the pending counts. The request is **granted**. It is

ORDERED that judgment as to the subject matter of Count 1 is herein entered against senior party MAKOTO SAITO;

FURTHER ORDERED that senior party MAKOTO SAITO is not entitled to claim 32 of its involved application 09/097,877, which corresponds to Count 1;

FURTHER ORDERED that judgment as to the subject matter of Count 3 is herein entered against senior party MAKOTO SAITO;

FURTHER ORDERED that senior party MAKOTO SAITO is not entitled to claims 14-21 and claims 23-29 of its involved application 09/097,877, which correspond to Count 3;

FURTHER ORDERED that judgment as to the subject matter of Count 4 is herein entered against senior party MAKOTO SAITO;

FURTHER ORDERED that senior party MAKOTO SAITO is not entitled to claims 22, 30, and 31 of its involved application 09/097,877, which correspond to Count 4;

FURTHER ORDERED that junior party DEREK L. DAVIS is not entitled to claims 4 and 13 of its involved Patent 5,805,706, pursuant to an agreement reached by junior party's

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counsel in a telephone conference call on October 26, 2004 (Paper No. 31) to have those claims disclaimed but which disclaimer has not yet been filed;³

FURTHER ORDERED that if there is a settlement agreement, the parties should note the requirements of 35 U.S.C. § 135(c) and Bd. Rule 205;

FURTHER ORDERED that a copy of this judgment be filed in the respective involved application or patent of the parties.

³ Entry of judgment against these two claims was discussed with respective counsel for the parties in a telephone conference call on February 24, 2005. Counsel for junior party Davis made no objection in light of junior party's failure to file the promised disclaimer.

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