

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 15

Filed by: Trial Section Motions Panel
Administrative Patent Judge
Mail Stop Interference
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Filed
September 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

RONALD G. CRYSTAL,
ERIK FALCK-PEDERSEN, JASON GALL, IMRE KOVESDI, and
THOMAS J. WICKHAM

Junior Party
(Application No. 09/613,431)¹,

v.

SOUMITRA ROY,

Senior Party
(Patent No. 5,922,315)².

FAXED

SEP 22 2004

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

Patent Interference 105,234

Before: TORCZON, LANE, and NAGUMO, Administrative Patent Judges.
NAGUMO, Administrative Patent Judge.

JUDGMENT-Rule 127(b)

¹ Filed on 10 July 2000. Accorded benefit for priority of application 08/816,346, now U.S. Patent No. 6,127,525, filed on 13 March 1997. The real parties in interest are Genvec, Inc., and Cornell Research Foundation, Inc.

² Based on application 08/788,674, filed 24 January 1997. The real party in interest is Genetic Therapy, Inc.

1. On 20 September 2004, Crystal filed CRYSTAL ABANDONMENT OF CONTEST, stating that Crystal abandoned the contest as to Count 1, under 37 CFR § 1.662(a). (Paper 14.)

2. Count 1 is the sole count in this interference.

Under 37 CFR § 41.127(b)(4), abandonment of the contest is treated as a request for judgement against the party as to all claims corresponding to the count (cf. 37 CFR § 1.662(a) (2003)).

Accordingly, it is:

ORDERED that judgment on priority as to Count 1, the sole count in the interference, is awarded against junior party Crystal;

FURTHER ORDERED that junior party Crystal is not entitled to a patent containing claims 79-81, 83-91, 93-95, 97-99, 101-103, 105-107, 109-111, 113-115, 117-119, 121, 122, 125-129 of application 09/613,431;

FURTHER ORDERED that a copy of this paper shall be made of record in files of 09/613,431 and Patent No. 5,922,315;

FURTHER ORDERED that if there is a settlement agreement,
attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 41.205.


RICHARD TORCZON
Administrative Patent Judge


SALLY GARDNER LANE
Administrative Patent Judge


MARK NAGUMO
Administrative Patent Judge

BOARD OF PATENT
APPEALS AND
INTERFERENCES

INTERFERENCE
TRIAL SECTION

Date: September 22, 2004
Arlington, VA

cc (via facsimile):
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