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June 10, 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

RODNEY M. **RICHARDS**,
THEODORE JONES,
and GREGORY S. BROWN
Junior Party
(Patent 6,037,152),

v.

JAMES L. **HARTLEY**
Senior Party
(Application 08/183,354).

Patent Interference No. 105,260¹

Before SALLY GARDNER LANE, SALLY C. MEDLEY, and JAMES T. MOORE,
Administrative Patent Judges.

LANE, Administrative Patent Judge.

Judgment - Merits- Bd.R. 127

The joint motion for a judgment of no interference-in-fact has been GRANTED.
(Paper 21).

Richards has statutorily disclaimed certain of its patent claims. Hartley has

¹ Interferences 105,257 through 105,260 are related. Hartley application 08/183,345 is involved in each of the interferences.

cancelled all of its pending application claims and has presented new claims 76-86 which do not interfere in fact with the remaining claims of the Richards patent. While claims 76-86 shall be entered into Hartley's 08/183,354 application, there has been no determination made that these claims are patentable to Hartley. As we noted in our decision on the joint motion (Paper 21 at 12),

Our decision to allow Hartley to add new claims to its application should not be construed as a determination that these new claims are patentable to Hartley. For example, we note that certain of Hartley's new claims, e.g., claims 82 [footnote omitted] through 86, appear to be of broader scope than the claims involved in the interferences. These new claims may be thoroughly examined upon the resumption of ex parte prosecution. It is appropriate to return the Hartley application.

Upon consideration of the record and for reasons given, it is

ORDERED that there is no interference-in-fact between claims 2-7 of Richards' involved patent 6,037,152 and claims 76-86 of Hartley's involved application 08/183,354.

FURTHER ORDERED that the Clerk is authorized to enter the Richards statutory disclaimer filed with the joint motion (Paper 19 at Joint Exhibit 8).

FURTHER ORDERED that the Clerk is authorized to enter the Hartley amendment filed May 24, 2005 (Paper 20).

FURTHER ORDERED that Richards is not entitled to a patent containing claims 1, 8, and 9 of patent 6,037,152.

FURTHER ORDERED that Hartley is not entitled to a patent containing claims 47-53, 56-72, 74 and 75 of application 08/183,354, filed January 19, 1994.

FURTHER ORDERED that if there is a settlement agreement, the parties are directed to 35 USC 135(c) and 37 CFR 41.205.

FURTHER ORDERED that a copy of this judgment shall be given a paper number and entered into the administrative records of Richards patent 6,037,152 and Hartley application 08/183,354.

10 June 2005
Alexandria, VA

cc (via first class mail):

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