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Paper 76

Entered: 4 December 2006

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10 UNITED STATES PATENT AND TRADEMARK OFFICE

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13 BEFORE THE BOARD OF PATENT APPEALS
14 AND INTERFERENCES

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17 PAUL A. **LUCIW** and
18 DINO DINA,

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20 Junior Party,
21 (Patent 6,531,276),

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23 v.

24
25 MARC **ALIZON**,
26 FRANCOISE BARRE SINOUSI,
27 PIERRE SONIGO, PIERRE TIOLLAIS,
28 JEAN-CLAUDE CHERMANN, LUC MONTAGNIER,
29 and SIMON WAIN-HOBSON,

30
31 Senior Party,
32 (Application 07/999,410).

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35 Patent Interference No. 105,289

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38 Before Lorin, Delmendo, and Lane, Administrative Patent Judges.

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40 Lane, Administrative Patent Judge.

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42 **Judgment-Bd.R. 127**

43 In an Order entered 3 November 2006, the parties were informed that:

44 Luciw has requested rehearing of the decision on motions in
45 interference 105,289. In particular, Luciw has requested rehearing
46 of that portion of the decision denying Luciw motion 2 to designate

1 Luciw claims 2-4 and 7-45 as not corresponding to the count.
2 (105,289 at Paper 70). Luciw has not requested rehearing of that
3 portion of the decision denying Luciw motion 1 contesting Alizon's
4 accorded benefit. (See 105,289 at Paper 67 at 54). [footnote
5 omitted]

6 Luciw has not alleged a date of invention that is prior to
7 Alizon's earliest accorded benefit date. (See Luciw priority
8 statement, Paper 36 in 105,289). When asked how it would
9 respond to an order to show cause, Luciw indicated that it wishes to
10 continue in interference 105,291 (Luciw v. Chang) but that it
11 expects judgment in the 105,289 interference. After decision on
12 rehearing is entered in that interference, judgment will be entered
13 against Luciw on the issue of priority.
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15 (Paper 73 at 3).

16 A decision on the Luciw request for rehearing has been entered. (Paper
17 75). Accordingly, it is appropriate to enter judgment against Luciw at this time.

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

20 ORDERED that judgment on priority as to Count 1, the sole count of the
21 interference, is entered against junior party PAUL A. LUCIW and DINO DINA;

22 FURTHER ORDERED that junior party PAUL A. LUCIW and DINO DINA
23 is not entitled to a patent containing claims 1-45 of patent 6,531,276, which
24 claims correspond to Count 1;

25 FURTHER ORDERED that, if there is a settlement agreement, the parties
26 are directed to 35 USC §135(c) and Bd. R. 205; and
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1 FURTHER ORDERED that a copy of this judgment shall be entered into
2 the administrative records of the Luciw patent 6,531,276 and Alizon application
3 07/999,410.

4)
5 /Hubert C. Lorin/)
6 HUBERT C. LORIN)
7 Administrative Patent Judge)
8)
9)
10)
11 /Romulo H. Delmendo/)
12 ROMULO H. DELMENDO) BOARD OF PATENT
13 Administrative Patent Judge) APPEALS AND
14) INTERFERENCES
15)
16)
17 /Sally Gardner Lane/)
18 SALLY GARDNER LANE)
19 Administrative Patent Judge)

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