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Paper 111
Filed: 29 September 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

DAVID V. **GOEDEL**,
And ROBERTO CREA

Junior Party
(Application 07/374,311),
v.

HARUO **SUGANO**,
MASAMI MURAMATSU, and TADATSUGU TANIGUCHI

Senior Party
(Patent 5,514,567 and 5,326,859).

Patent Interference No. 105,334)
(Technology Center 1600)

Before: RICHARD TORCZON, SALLY GARDNER LANE, and MICHAEL P.
TIERNEY, *Administrative Patent Judges.*

LANE, *Administrative Patent Judge.*

Judgment –Motions – Bd. R. 127(a)

1 A decision on non-priority motions has been entered. (Paper 109). As
2 noted in that decision, Goeddel has not alleged in its priority statement a date
3 that is prior to Sugano's earliest accorded benefit date. (Paper 109 at 52). It is
4 appropriate to enter judgment against Goeddel since Goeddel cannot prevail on
5 priority in the interference.

6 It is

7 **ORDERED** that judgment on priority as to Count 2, the sole count
8 of the interference, is entered against junior party Goeddel (Paper 110 at 2);

9 **FURTHER ORDERED** that claims 25-52 of Goeddel application
10 07/374,311, which claims correspond to Count 2 (Paper 110 at 1 and Paper 1 at
11 5), be FINALLY REFUSED, 35 U.S.C. §135(a);

12 **FURTHER ORDERED** that the parties note the requirements of
13 35 U.S.C. §135(c) and Bd.R. 205; and

14 **FURTHER ORDERED** that a copy of this judgment shall be entered
15 into the administrative record of the involved Goeddel application and the
16 involved Sugano patents.

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