

**THIS DOCUMENT WAS NOT WRITTEN FOR PUBLICATION
AND IS NOT BINDING PRECEDENT OF THE BOARD**

Filed by: Trial Section Merits Panel
Mail Stop INTERFERENCE
Board of Patent Appeals and Interferences
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450
Tel: 571-272-9797 Fax: 571-272-0943

Paper No. 51
Entered March 9, 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

TAKASHI NOGUCHI and
YASUSHI SHIMOGAICHI

Junior Party
(Patent 5,943,593)¹

v.

HONGYONG ZHANG, NAOAKI YAMAGUCHI
and YASUHIKO TAKEMURA

Senior Party
(Application 09/633,869)²

Patent Interference No. 105,339

Before LEE, TORCZON and MEDLEY, Administrative Patent Judge.

LEE, Administrative Patent Judge.

Judgment – Bd. Rule 127(b)

Counsel for Zhang represents and counsel for Noguchi has confirmed that Noguchi filed a disclaimer of all of its involved patent claims in this interference, i.e., claims 1-7 (Papers 48 and 50). Additionally, counsel for Zhang represents and counsel for Noguchi has confirmed that

¹ Based on Application 09/083,926, filed May 22, 1998. Accorded the benefit of Application 08/745,284, filed November 8, 1996. The real party in interest is Sony Corporation.

² Filed August 7, 2000. Accorded the benefit of Application 09/236,620, filed January 26, 1999, and Application 08/641,695, filed May 2, 1996. The real party in interest is Semiconductor Energy Laboratory Co., Ltd.

Interference No. 105,339
NOGUCHI v. ZHANG

Noguchi withdraws all of its pending motions (Papers 48 and 50). Counsel for Zhang further represents that Zhang withdraws all of its pending motions (Paper 48).

Per 37 CFR § 41.127(b)(2), Noguchi's disclaimer of all of its involved claims is construed as a request for entry of adverse judgment. That is consistent with counsel for Zhang's representation in Paper 48 that the parties jointly request a termination of this interference, evidently based on Noguchi's disclaimer of all involved claims. Counsel for Noguchi confirms that the request for termination was jointly made (Paper 50). Accordingly, it is

ORDERED that Noguchi's request for entry of adverse judgment is **granted**;

FURTHER ORDERED that the parties' joint request for termination of the interference is **dismissed** as moot in light of Noguchi's request for entry of adverse judgment;

FURTHER ORDERED that judgment as to the subject matter of Count 1 is herein entered against junior party TAKASHI NOGUCHI and YASUSHI SHIMOGAICHI;

FURTHER ORDERED that the junior party TAKASHI NOGUCHI and YASUSHI SHIMOGAICHI is not entitled to its patent claims 1-7 which correspond to Count 1 of this interference;

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 entered in the respective involved application or patent of the parties.

Interference No. 105,339
NOGUCHI v. ZHANG

By Electronic-Mail:

Counsel for Junior Party Noguchi:

dmetzger@sonnenschein.com
David R. Metzger, Esq.
SONNENSCHN NATH & ROSENTHAL LLP
P.O. Box 061080
Wacker Drive Station
Sears Tower
Chicago, Illinois 60606-1080

Attorney for senior party Zhang:

jcstellia@nixonpeabody.com
Jeffrey L. Costellia, Esq.
401 9th Street, N.W.
Suite 90
Washington, D.C. 20004-2128