

The opinion in support of the decision being entered today is not  
binding precedent of the Board

Paper 135  
Filed: 27 July 2007

Mail Stop Interference  
P.O. Box 1450  
Alexandria, VA 22313-1450  
Tel: 571-272-4683  
Fax: 571-273-0042

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

**Human Genome Sciences, Inc.,**

Junior Party

(Application 10/005,842-IFW

Inventors: Jian Ni, Reiner L. Gentz,  
Guo-Liang Yu and Craig A. Rosen),

v.

**Immunex Corp.,**

Senior Party

(Patent 6,642,358

Inventors: Charles Rauch and Henning Walczak).

---

Patent Interference No. 105,381 (RES)

---

Before McKELVEY, *Senior Administrative Patent Judge*, and SCHAFER  
and MOORE, *Administrative Patent Judges*.

**Judgment - Order to Show Cause**

- 1 Junior Party Human Genome Sciences (HGS) was put under an order  
2 to show cause why judgment should not be entered against it. Paper 114.

1 HGS responded. Paper 115. For the reasons given in the Decision - Order  
2 to Show Cause entered concurrently herewith (Paper 134), it is

3 ORDERED that judgment as to Count 1 (the sole count in the  
4 interference; Paper 1, page 6) is awarded against Junior Party HUMAN  
5 GENOME SCIENCES;

6 FURTHER ORDERED that HUMAN GENOME SCIENCES claims  
7 35, 36, 38-45, 47-54, 56-61, 75, 83, 92, 99, 100, 102-109, 111-116, 127-133,  
8 168-178, 180-203 are unpatentable over priori art 35 U.S.C. § 102(e));

9 FURTHER ORDERED that Junior Party HUMAN GENOME  
10 SCIENCES is not entitled to a patent containing claims 35, 36, 38-45, 47-54,  
11 56-61, 75, 83, 92, 99, 100, 102-109, 111-116, 127-133, 168-178, 180-203 of  
12 Application 10/005,842 (corresponding to Count 1);

13 FURTHER ORDERED that if there is a settlement agreement,  
14 attention is directed to 35 U.S.C. § 135(c);

15 FURTHER ORDERED that a copy of this JUDGMENT shall be  
16 placed in the files of (1) Application 10/005,842 and (2) Patent 6,642,358;  
17 and

1           FURTHER ORDERED that in the event of judicial review, the party  
2 seeking judicial review must comply with mandatory notice provisions of 37  
3 C.F.R. § 41.8(b) (2006).

<u>/Fred E. McKelvey/</u>	)	
FRED E. MCKELVEY	)	
Senior Administrative Patent Judge	)	
	)	
	)	
<u>/Richard E. Schafer/</u>	)	BOARD OF PATENT
RICHARD E. SCHAFER	)	APPEALS AND
Administrative Patent Judge	)	INTERFERENCES
	)	
	)	
<u>/James T. Moore/</u>	)	
JAMES T. MOORE	)	
Administrative Patent Judge	)	

cc (FAX):

Counsel for HUMAN GENOME  
SCIENCES, INC:  
Jorge A. Goldstein, Esq.  
STERNE, KESSLER, GOLDSTEIN  
& FOX PLLC  
1100 New York Avenue, N.W.  
Washington, D.C. 20005-3934  
Tel: 202-371-2600  
Fax: 202-371-2540  
Email: [jgold@skgf.com](mailto:jgold@skgf.com)

Counsel for IMMUNEX  
CORPORATION:  
Michael J. Wise, Esq.  
PERKINS COIE LLP  
1620 26th Street,  
6th Floor, South Tower  
Santa Monica, CA 90404-4013  
Tel: 310-788-3210  
Fax: 310-788-3399  
Email: [mwise@perkinscoie.com](mailto:mwise@perkinscoie.com)

1

Attorney for GENENTECH  
(Interference 105,361):  
Oliver R. Ashe, Jr. Esq.  
ASHE, P.C.  
11440 Isaac Newton Square North  
Suite 210  
Reston, VA 20190  
Tel: 703-467-9001  
Fax: 703-467-9002  
Email: [oashe@ashepc.com](mailto:oashe@ashepc.com)