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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
(Michael P. Tierney)

PAOLO **PEVARELLO**, MARIO VARASI,
PATRICIA SALVATI and CLAES POST
Junior Party
(U.S. Patent No. 6,306,903),

v.

NANCY C. LAN, YAN WANG,
and SUI XIONG CAI
Senior Party
(U.S. Application No. 10/429,764).

Patent Interference No. 105,394
(Technology Center 1600)(MPT).

JUDGMENT - PRELIMINARY MOTIONS - Bd. R. 127

Before: HANLON, LANE and TIERNEY, Administrative Patent Judges.

TIERNEY, Administrative Patent Judge.

1 The Board has entered a Decision on Motions in this interference. (Paper No. 84). As
2 discussed in the Decision, Lan lacks an enabling disclosure of a method of treating or
3 ameliorating pain, which is required by the count. Accordingly, Lan's involved application lacks
4 a constructive reduction to practice of an embodiment within the scope of the count and, as such,

1 Lan is unable to contest priority of invention. Based upon the facts presented, we exercise our
2 discretion and decline to continue the interference. *C.f., Noelle v. Lederman*, Interference No.
3 104,724, Paper No. 89, Order Entering Final Judgment Against Noelle. Judgment is entered
4 against Lan.

5 It is:

6 **Ordered** that judgment on priority of invention as to Count 1, the sole count in
7 interference, is awarded against Lan.

8 **Further Ordered** that Lan is not entitled to Lan, U.S. Application 10/429,764 claims 1-6
9 and 8-33, all of which correspond to Count 1.

10 **Further Ordered** that a copy of the Decision and Judgment be placed in the files of Lan,
11 U.S. Application 10/429,764 and Pevarello, U.S. Patent 6,306,903.

12 **Further Ordered** that should there be a settlement agreement, the parties' attention is
13 directed to 35 U.S.C. §135(c) and Bd. R. 205.

\ss\ Adriene Lepiane Hanlon)
ADRIENE LEPIANE HANLON)
Administrative Patent Judge)

\ss\ Sally Gardner Lane)
SALLY GARDNER LANE)
Administrative Patent Judge)

\ss\ Michael P. Tierney)
MICHAEL P. TIERNEY)
Administrative Patent Judge)

) BOARD OF PATENT
) APPEALS AND
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