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Paper 25

Filed September 13, 2006

8 UNITED STATES PATENT AND TRADEMARK OFFICE
9 BEFORE THE BOARD OF PATENT APPEALS
10 AND INTERFERENCES
11 (Administrative Patent Judge Jameson Lee)
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14
15 HAROLD R. GARNER
16 Junior Party
17 (Application 09/999,239),
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19 v.

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21 CALVIN F. QUATE
22 and
23 DAVID STERN
24 Senior Party
25 (Patent 6,271,957).
26 Patent Interference No. 105,445 (JL)
27 (Technology Center 1600)
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31
32 Before SCHAFFER, LEE, and MOORE, *Administrative Patent Judges*.

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34 MOORE, *Administrative Patent Judge*.

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36 **JUDGMENT - Bd. R. 127(a)**
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38 Garner has failed to explain why judgment should not be entered against it based
39 upon its failure to establish that it could prevail on the issue of priority. 37 CFR §
40 41.202(d) (2005).

41 Upon consideration of the decision on the Order to Show Cause, it is
42 **ORDERED** that judgment on priority as to Count 1 (the sole count in the
43 interference; Paper 1, page 4) is awarded against Junior Party Harold R. Garner

1 **FURTHER ORDERED** that Junior Party Harold R. Garner is not entitled to a
2 patent containing claims 28-55 and 57-63 (corresponding to Count 1) of application
3 09/999,239.

4 **FURTHER ORDERED** that if there is a settlement agreement, attention is
5 directed to 35 U.S.C. § 135(c).

6 **FURTHER ORDERED** that a copy of this JUDGMENT and accompanying
7 DECISION shall be placed in the files of (1) application 09/999,239 and (2) U.S. Patent
8 6,271,957.

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10	/Richard E. Schafer/)	
11	ADMINISTRATIVE PATENT JUDGE)	
12)	
13)	BOARD OF PATENT
14	/Jameson Lee/)	APPEALS AND
15	ADMINISTRATIVE PATENT JUDGE)	INTERFERENCES
16)	
17)	
18	/James T. Moore/)	
19	ADMINISTRATIVE PATENT JUDGE)	

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