

Trial Section Merits
Panel
BOX INTERFERENCE
WASHINGTON DC
20231

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

SUSAN G. STUART,
JOHN J. MONAHAN, BEATRICE C. LANGTON, MIRIAM E.C. HANCOCK,
LORRINE A. CHAO, and PETER BLUFORD
(08/115,073),

Junior Party,

v.

ROBERT M. HUDZIAK,
H. MICHAEL SHEPARD, and AXEL ULLRICH
(08/422,734),

Senior Party.

Interference No. 103,890

Before SCHAFER, TORCZON, and GARDNER-LANE, Administrative Patent Judges.

TORCZON, Administrative Patent Judge.

JUDGMENT

(PURSUANT TO 37 CFR § 1.662(a))
INTRODUCTION

Stuart through counsel abandons contest as to the sole count (Paper No. 110).

Abandonment of contest is treated as a request for adverse judgment. 37 CFR § 1.662(a).

ORDER

Upon consideration of Paper No. 110, it is—

35 U.S.C. § 135(c) Notice: Failure to file a copy of any agreement regarding the termination of this proceeding may render the agreement and any resulting patents unenforceable. See section 135(c) and 37 CFR § 1.661 for more details.

ORDERED that judgment on priority as to Count 1 is awarded against Stuart;

FURTHER ORDERED that Stuart is not entitled to a patent containing claims 13-16, 37-40, 46-50, 52, 53, 55, 56, and 58¹ of Stuart's 08/115,073 application, which correspond to Count 1;

FURTHER ORDERED that, based on the record before us, Hudziak is entitled to a patent containing claims 11, 18-21, and 26-36 of Hudziak's 08/422,734 application, which correspond to Count 1; and

FURTHER ORDERED that a copy of this decision be given a paper number and be entered in the administrative record of Stuart's 08/115,073 application and of Hudziak's 08/422,734 application.

RICHARD E. SCHAFER
Administrative Patent Judge

RICHARD TORCZON
Administrative Patent Judge

SALLY GARDNER-LANE
Administrative Patent Judge

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INTERFERENCE
TRIAL SECTION

¹ Claim 1 was held unpatentable in Paper No. 107.

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