

**THIS OPINION WAS NOT WRITTEN FOR PUBLICATION**

The opinion in support of the decision being entered today  
(1) was not written for publication in a law journal and  
(2) is not binding precedent of the Board.

Paper No. 13

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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JOSEPH SHUEY

Junior Party,<sup>1</sup>

v.

TAKASHI FUTATSUGI and IKUO ENOMOTO

Senior Party.<sup>2</sup>

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Patent Interference No. 104,020

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<sup>1</sup> Patent 5,451,168, granted September 19, 1995, based on Application 08/131,212, filed October 1, 1993. Assignor to Berg Technology, Inc.

<sup>2</sup> Application 08/604,063, filed February 20, 1996. Accorded benefit of Patent 5,503,564, granted April 2, 1996, based on Application 08/118,373, filed September 8, 1993. Assignors to Whitaker Corp.

Interference No. 104,020

Before CALVERT, METZ and PATE, *Administrative Patent Judges*.

PATE, *Administrative Patent Judge*.

**JUDGMENT UNDER 37 CFR § 1.640(e)**

**Background**

During a preliminary motion period established by the Administrative Patent Judge (APJ) in this interference, the junior party filed an abandonment of the contest and the senior party filed a motion under 37 CFR § 1.633(c)(3) to have additional claims of the junior party designated as corresponding to the count. Neither party filed a preliminary statement. In a decision, the APJ granted the senior party motion to designate claims and redeclared the interference with claims 1-41 of the junior party designated as corresponding to the count. The APJ issued an Order to Show Cause under 37 CFR § 1.640(d)(2) against the junior party. The junior party has not responded to the order. Accordingly, the following judgment under 37 CFR § 1.640(e) is entered.

**Judgment**

Interference No. 104,020

Judgment in Interference No. 104,020 is entered against Joseph B. Shuey, the junior party, on the ground of priority of invention. Joseph B. Shuey is not entitled to his patent claims 1 through 41, which claims correspond to the count in interference. Judgment is entered in favor of Takashi Futatsugi and Ikuo Enomoto, the senior party. Takashi Futatsugi and Ikuo Enomoto are entitled to a patent containing claims 20, 25 through 28 and 31 through 43, which claims correspond to the count in interference.

	IAN A. CALVERT	)	
	Administrative Patent Judge	)	
		)	
		)	
		)	BOARD OF
PATENT		)	
	ANDREW H. METZ	)	APPEALS AND
	Administrative Patent Judge	)	
INTERFERENCES		)	
		)	
		)	
	WILLIAM F. PATE, III	)	
	Administrative Patent Judge	)	

Interference No. 104,020

psb

Interference No. 104,020

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