

*THIS OPINION WAS NOT WRITTEN FOR PUBLICATION
and is not binding precedent of the Board*

Paper No. 11

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

JOHN H. HOLMES,¹

Junior Party,

v.

LOUIS M. SARDELLA and JOHN B. WEST,²

Senior Party.

Patent Interference No. 103,315

JUDGMENT UNDER 37 CFR § 1.658

METZ, PATE, and MARTIN, Administrative Patent Judges.

MARTIN, Administrative Patent Judge.

¹ Patent No. 5,048,812, granted September 17, 1991, based on Application 07/477,155, filed February 8, 1990. Assigned to Prime Technology, Inc. Accorded benefit of Application 07/266,465, filed November 3, 1988 (abandoned).

² Application 07/662,034, filed February 28, 1991. Assigned to Sun Automation, Inc. Accorded benefit of Application 07/257,063, filed October 13, 1988 (now Patent 5,148,811, granted February 9, 1993).

The "Show cause order" faxed to the parties on April 5, 2001, gave Holmes until April 19 to file (by fax) a paper showing cause why the expiration of Holmes's involved Patent 5,048,812 for failure to pay a maintenance fee should not be treated as a request for the entry of adverse judgment on the issue of priority with respect to the subject matter of the count. In view of Holmes's failure to file such a paper, judgment on the issue of priority is hereby entered against Holmes's patent claims that correspond to the count, viz., claims 1-46, which means Holmes is not entitled to a patent containing those claims. Accordingly, judgment on the issue of priority is hereby awarded in favor of Sardella et al.'s claims that correspond to the count, viz., claims 6, 8-10, 12-17, 21, 22, and 25-53, which means Sardella et al. are entitled to a patent containing those claims.

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ANDREW H. METZ)
Administrative Patent Judge))
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)) BOARD OF
)) PATENT APPEALS
_____)) AND
WILLIAM F. PATE III)) INTERFERENCES
Administrative Patent Judge))
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JOHN C. MARTIN))
Administrative Patent Judge)

Interference No. 103,315

cc:

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