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22 September 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

REGENTS FOR THE UNIVERSITY OF CALIFORNIA,

Junior Party,
(U.S. Patent Application No. 09/071,838),

v.

COLD SPRING HARBOR LABORATORY,

Senior Party,
(U.S. Patent No. 6,239,327).

Patent Interference No. **105,137** (MPT)

Before: SCHAFER, LEE and TIERNEY, Administrative Patent Judges.

TIERNEY, Administrative Patent Judge.

FINAL JUDGMENT
(Pursuant to 37 CFR § 1.662(a))

A. Judgment

A conference call took place on September 17, 2003 at approximately 4:00 p.m. (EST).

Participating in the conference call were:

1. Michael P. Tierney, Administrative Patent Judge (APJ)

2. Steven Parmelee, counsel for the Regents for the University of California
3. Heidi Nebel, counsel for Cold Spring Harbor Laboratory

During the conference call, Ms. Nebel informed the APJ that Cold Spring Harbor Laboratory would not be contesting the interference. This abandonment of contest is consistent with their failure to file papers identifying lead and backup counsel and the real party in interest. (See, Standing Order, Paper No. 2, sections 4 and 5). Pursuant to 37 CFR § 1.662(a), Senior Party 's abandonment of the contest is treated as a request for adverse judgment as to Count 1, the sole count in interference.

B. Order

Upon consideration of the record, and for the reasons given, it is:

ORDERED that judgment on priority as to Count 1 (Notice Declaring Interference, Paper No. 1, page 6), the sole count in the interference, is awarded *against* Senior Party Cold Spring Harbor Laboratory.

FURTHER ORDERED that Senior Party Cold Spring Harbor Laboratory is not entitled to a patent containing claims 1-7 and 11-17 of Grossniklaus et al., U.S. Patent No. 6,239,327.

FURTHER ORDERED that a copy of this Judgment shall be placed and given a paper number in the file of Regents for the University of California (Fischer et al.), U.S. Application No. 09/071,838 and Cold Spring Harbor Laboratory (Grossniklaus et al.), U.S. Patent No. 6,239,327.

cc (via Facsimile):

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interest Regents for the University of California):

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