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Administrative Patent Judge
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29 September 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

KAZUO SUGAMURA,
KAZUKO MURATA, and NORIKAZU HIGASHIMURA

Junior Party,
(Patent 6,333,035),

v.

WAYNE GODFREY,
and EDGAR G. ENGLEMAN,

Senior Party,
(Application 10/323,274).

Patent Interference No. 105,275

Before: Torczon, Lane and Moore, Administrative Patent Judges.

Lane, Administrative Patent Judge.

Judgment - Request for Adverse -Bd.R. 127(b)

If a junior party fails to file a priority statement overcoming a senior party's accorded benefit, then judgment may be entered against the junior party absent a showing of good cause. Bd. R. 204(a)(3). The time for filing priority statements has passed (see Paper 21) yet junior party Sugamura has not filed a priority statement.

On 28 September 2005, Board paralegal Sonja Desperett spoke to Todd Walters, counsel for Sugamura. Mr. Walters indicated that Sugamura does not plan to file a priority statement. Given Mr. Walters' statement, there appears to be no need to issue

an order to show cause. We treat Sugamura's failure to file a priority statement in combination with Mr. Walters' statement as a request for adverse judgment. See Bd.R. 127(b)(4).

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

ORDERED that judgment on priority is entered against junior party KAZUO SUGAMURA, KAZUKO MURATA, and NORIKAZU HIGASHIMURA;

FURTHER ORDERED that junior party KAZUO SUGAMURA, KAZUKO MURATA, and NORIKAZU HIGASHIMURA is not entitled to a patent containing claim 1 of patent 6,333,035, which claim corresponds to count 1, the first of the two counts of the interference (Paper 1 at 6);

FURTHER ORDERED that junior party KAZUO SUGAMURA, KAZUKO MURATA, and NORIKAZU HIGASHIMURA is not entitled to a patent containing claim 2 of patent 6,333,035, which claim corresponds to count 2, the second of the two counts of the interference (Paper 1 at 7); and

FURTHER ORDERED that a copy of this judgment shall be entered into the administrative record of Sugamura's 6,333,035 patent and Godfrey's 10/323,274 application; and

FURTHER ORDERED that, if there is a settlement agreement, the parties are directed to 35 USC 135(c) and Bd. R. 205.

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