

Trial Section Merits Panel  
BOX INTERFERENCE  
WASHINGTON DC 20231  
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Paper No. 162

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

HIROAKI MITSUYA, SEIJI KAGEYAMA, YOSHIAKI KISO,  
HIDEYA HAYASHI, and TSUTOMU MIMOTO  
(08/093,100),

Junior Party,

v.

TSUTOMU MIMOTO, NAKO HATTORI, MAKOTO SHINTANI,  
YUUICHI NAGANO, and YOSHIAKI KISO  
(08/246,843 and 08/378,057),

Senior Party.

Interference No. 104,153

Before SCHAFER, LEE, and TORCZON, Administrative Patent Judges.

TORCZON, Administrative Patent Judge.

**JUDGMENT**

(PURSUANT TO 37 CFR § 1.662)

INTRODUCTION

Mitsuya has filed an abandonment of contest "only" with regard to count 2 (Paper No. 161). Count 2 is the only count pending (Paper No. 151 (granting Mitsuya's motion to

substitute count 2 for count 1)). Hence, there is no count other than count 2 to contest. Pursuant to 37 CFR § 1.662(a), Mitsuya's abandonment is treated as a request for adverse judgment.

ORDER

Upon consideration of the record of this interference, it is-

ORDERED that judgment on priority as to Count 2 is awarded against junior party Mitsuya;

FURTHER ORDERED that junior party Mitsuya is not entitled to a patent containing claims 1-3, 5, 6, 8-12, and 14-17 of Mitsuya's involved 08/093,100 application, which correspond to count 2;

FURTHER ORDERED that, based on the record before us, senior party Mimoto is entitled to a patent containing claims 19-21, 24-28, 31-36, 39-41, 44, and 45 of Mimoto's 08/246,843 application and claims 1-3, 6, 7, 15, 16, 18-20, and 22-25 of Mimoto's 08/378,057 application, which correspond to count 2; and

FURTHER ORDERED that a copy of this decision be given a paper number and be entered in the administrative records of

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Mitsuya's 08/093,100 application and Mimoto's 08/246,843 and  
08/378,057 applications.

RICHARD E. SCHAFER  
Administrative Patent Judge

JAMESON LEE  
Administrative Patent Judge

RICHARD TORCZON  
Administrative Patent Judge

BOARD OF  
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