

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 25

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

KIYOSHI NASHIMOTO

Junior Party,¹

v.

AKIRA OXAMIDE, SHIGERU KOBAYASHI,
HIDEAKI SHIMAMURA, SUSUMU TSUZUKU, EISUKE NISHITANI,
SATOSI KISIMOTO and YUJI YONEOKA

Senior Party.²

Interference No. 103,863

Before URYNOWICZ, SOFOCLEOUS and DOWNEY, Administrative Patent Judge.

¹Application No. 07/680,938, filed April 5, 1991, now U.S. Patent No. 5,147,498, issued September 15, 1992. Assignor th ANELVA Corp., Tokyo, Japan.

²Application No. 08/260,321, filed June 15, 1994. Accorded Benefit of U.S. Application No. 07/741,526, filed August 12, 1991; Japanese Application Nos. 01-318,749, filed December 11, 1989, and 02-225,388, filed August 29, 1990; and PCT Application No. JP90/01601, filed December 10, 1990. Assignor to Hitachi, Ltd., Tokyo, Japan.

Interference No.

SOFOCLEOUS, Administrative Patent Judge.

Interference No.

JUDGMENT

Okamoto et al., the senior party, failed to make any showing why judgment on the record should not be entered against them in view of the granting of a preliminary motion for judgment against them, and the time allowed for such showing has expired.

Accordingly, pursuant to the order of June 29, 1998, judgment under 37 CFR § 1.640(d)(1) and (e) as to the subject matter of the counts in issue is awarded to Kiyoshi Nashimoto, the junior party. On the present record, Kiyoshi Nashimoto, the junior party, is entitled to a patent containing claims 1 and 5 to 10 corresponding to the counts and Akira Okamoto, Shigeru Kobayashi, Hideaki Shimamura, Susumu Tsuzuku, Eisuke Nishitani, Satoshi Kisimoto and Yuji Yoneoka, the senior party, are not entitled to a patent containing claims 47 and 48 corresponding to the counts.

STANLEY M. URYNOWICZ, JR.)	
Administrative Patent Judge)	
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MICHAEL SOFOCLEOUS)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES

Interference No.

MARY F. DOWNEY)
Administrative Patent Judge)

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