

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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 59

Filed by: Interference Trial Section Merits Panel
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

KARL-HEINRICH SCHULTE-ELTE, CHRISTIAN MARGOT, CHRISTIAN CHAPUIS,
DANA P. SIMMONS and DANIEL REICHLIN

Junior Party,

v.

TATSUYA OHMOTO, AKEMI SHIMADA and TAKESHI YAMAMOTO,

Senior Party.

Patent Interference No. 104,088

Before: McKELVEY, Senior Administrative Patent Judge, SCHAFER and LEE, Administrative Patent Judges.

PER CURIUM

JUDGMENT PURSUANT TO 37 CFR § 1.662

Upon consideration of SCHULTE-ELTE ET AL. REQUEST FOR ADVERSE JUDGMENT UNDER 37 C.F.R. § 1.662 (Paper 58), it is

ORDERED that judgment on priority as to Count 1 (Paper 1, p.15), the sole count in the interference, is awarded against the junior party KARL-HEINRICH SCHULTE-ELTE, CHRISTIAN MARGOT, CHRISTIAN CHAPUIS, DANA P. SIMMONS and DANIEL REICHLIN.

FURTHER ORDERED that, judgment on priority as to Count 1 is awarded in favor of senior party TATSUYA OHMOTO, AKEMI SHIMADA and TAKESHI YAMAMOTO.

FURTHER ORDERED that junior party KARL-HEINRICH SCHULTE-ELTE, CHRISTIAN MARGOT, CHRISTIAN CHAPUIS, DANA P. SIMMONS and DANIEL REICHLIN is not entitled to a patent containing claims 24-29, 33 and 35¹ (corresponding to Count 1) of application 08/218,543, filed March 28, 1994.

FURTHER ORDERED that on the record before the Board of Patent Appeals and Interferences, senior party TATSUYA OHMOTO, AKEMI SHIMADA and TAKESHI YAMAMOTO is entitled to a patent containing claims 1-9 (corresponding to Count 1) of Patent 5,250,512 granted October 5, 1993, based on application 07/879,738, filed May 6, 1992.

¹ Schulte-Elte's request states:

The Party Schulte-Elte et al. hereby requests and agrees to an entry of adverse judgment as to the invention defined by Count 1, corresponding to claims 20-29, 33 and 35 of Schulte-Elte et al.'s involved Patent Application Serial No. 07/695,479.

However, only claims 24-29, 33 and 35 are designated as corresponding to the count. Notice Declaring Interference (Paper 1), p. 15. Since only the claims corresponding to the count are involved in the interference (37 CFR § 1.601(f)), only claims 24-29, 33 and 35 have been referred to in the judgment.

FURTHER ORDERED that a copy of this decision be made of record in application 08/218,543 and the file of patent 5,250,512.

_____)	
FRED E. McKELVEY)	
Senior Administrative Patent Judge)	
)	
)	
_____)	BOARD OF PATENT
RICHARD E. SCHAFER)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
)	
)	
_____)	
JAMESON LEE)	
Administrative Patent Judge)	
)	
)	

cc: (via First Class Mail)

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