

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 29

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MICHAEL L. HONIG and UPAMANYU MADHOW,

Junior Party,¹

v.

RYAN N. JENSEN,
ROBERT C. DIXON, and JEFFREY S. VANDERPOOL,²

Senior Party.³

Patent Interference No. 104,191

JUDGMENT UNDER 37 CFR § 1.662(a)

METZ, PATE, and MARTIN, Administrative Patent Judges.

¹ Patent No. 5,481,533, granted January 2, 1996, based on Application Serial No. 08/241,928, filed May 12, 1994. Assigned to Omnipoint Corporation. Accorded benefit of: none.

² When the interference was declared, the inventors of the involved senior party application were Anderson Gary B. Anderson, Ryan N. Jensen, Bryan K. Petch, and Peter O. Peterson. In paper No. 28, the Administrative Patent Judge (APJ) granted 37 CFR § 1.634 motions changing the inventorship to Ryan N. Jensen, Robert C. Dixon, and Jeffrey S. Vanderpool. The interference was redeclared accordingly in paper No. 29.

³ Application Serial No. 08/774,559, filed December 31, 1996. Assigned to Omnipoint Corporation. Accorded benefit of the following U.S. Applications: Serial No. 08/284,053, filed August 1, 1994; Serial No. 08/215,306, filed March 21, 1994; and Serial No. 08/146,496, filed November 1, 1993.

MARTIN, Administrative Patent Judge.

As a result of Omnipoint's common ownership of the involved junior party patent and the involved senior party application, the APJ ordered Omnipoint to show cause why judgment should not be entered on priority grounds in favor of the senior party and against the junior party (paper No. 12). Omnipoint responded to the show cause order by identifying the senior party as the first inventor and requesting the entry of judgment in favor of the senior party (paper No. 15). That request is being construed as a request under § 1.662(a) for entry of adverse judgment against junior party Honig et al. for lack of priority, which request is granted. As a result, Honig et al. are not entitled to a patent containing their patent claims that correspond to the count, i.e., claims 1-18. Judgment therefore is awarded to Jensen et al., who are entitled to a patent containing their application claims that correspond to the count, i.e., claims 10-21.

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ANDREW H. METZ)
Administrative Patent Judge))
_____)) BOARD OF
WILLIAM F. PATE, III) PATENT APPEALS
Administrative Patent Judge) AND
INTERFERENCES

Interference No. 104,191

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JOHN C. MARTIN)
Administrative Patent Judge)

Interference No. 104,191

cc:

For the party Honig et al.:

Joseph Giordano, Esq.
Bell Communications Research, Inc.
445 South Street - Room 1G -112R
Morristown, NJ 07960

For the party Anderson et al:

Steven D. Hemminger, Esq.
Lyon & Lyon
303 Almaden Blvd., Suite 1150
San Jose, CA 95110-2066