

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 24

Filed by: Trial Section Merits Panel  
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Washington, D.C. 20231  
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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PATRICK R. GRUBER, JEFFREY J. KOLSTAD, ERICK S. HALL,  
ROBIN S. EICHEN CONN and CHRISTOPHER M. RYAN,

Junior Party,  
(Patent 5,539,081),

v.

DONALD M. BIGG, RICHARD G. SINCLAIR, EDWARD S. LIPINSKY,  
JOHN H. LITCHFIELD and BILLY R. ALLEN,

Senior Party  
(Application 08/515,696).

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Patent Interference No. 104,326

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

McKELVEY, Senior Administrative Patent Judge.

**JUDGMENT PURSUANT TO 37 CFR § 1.662**

Upon consideration of the REQUEST FOR ENTRY OF ADVERSE  
JUDGMENT by Gruber (Paper 21), it is

ORDERED that junior party PATRICK R. GRUBER, JEFFREY J. KOLSTAD, ERICK S. HALL, ROBIN S. EICHEN CONN and CHRISTOPHER M. RYAN is not entitled to a patent containing claims 1 and 19 (corresponding to Count 1) of U.S. Patent 5,539,081, issued 23 July 1996, based on application 08/445,775, filed 22 May 1995.

FURTHER ORDERED that nothing in this JUDGMENT PURSUANT TO 37 CFR § 1.662 shall preclude the filing of a reissue application seeking to reissue a patent containing claims which are patentably distinct from claims 1 and 19.

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Upon consideration of the REQUEST FOR ENTRY OF ADVERSE JUDGMENT by Bigg (Paper 22), it is

ORDERED that senior party DONALD M. BIGG, RICHARD G. SINCLAIR, EDWARD S. LIPINSKY, JOHN H. LITCHFIELD and BILLY R. ALLEN is not entitled to a patent containing claim 304 (corresponding to Count 1) of application 08/515,696, filed 16 August 1995.

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Receipt is acknowledged of the SUBMISSION UNDER 37 CFR 1.666 (Paper 23) to which is attached an ASSET SALE AND PURCHASE AGREEMENT filed pursuant to 35 U.S.C. § 135(c). The ASSET SALE AND PURCHASE AGREEMENT shall be maintained separate from the interference file as requested.

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FRED E. MCKELVEY, Senior )  
Administrative Patent Judge )  
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JAMESON LEE ) BOARD OF PATENT  
Administrative Patent Judge ) APPEALS AND  
 ) INTERFERENCES  
 )  
 )  
\_\_\_\_\_)  
RICHARD TORCZON )  
Administrative Patent Judge )

104,326  
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