

**THIS OPINION WAS NOT WRITTEN FOR PUBLICATION
and is not binding precedent of the Board**

Paper 26

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

BRADLEY J. KNAPP, FRED M. KIMOCK,
RUDOLPH HUGO PETRMICHL and
NORMAN DONALD GALVIN

Junior Party,
(Application 09/048,016),

v.

DAVID A. BALDWIN and STEPHEN L. MICHEL

Senior Party,
(Patent 5,616,179).

Patent Interference No. 104,579

DECISION ON MOTIONS, FINAL JUDGMENT and ORDER

Baldwin has filed a motion to correct inventorship under 37 CFR § 1.634. Knapp moves under 37 CFR § 1.635 to cancel claim 35 from the Knapp application. We grant both motions and enter final judgment.

Discussion

Baldwin's motion seeks to add the Bradley J. Knapp and Fred M. Kimock as additional inventors to the Baldwin involved patent. Baldwin has complied with the provisions of 37 CFR §§ 1.634, 1.324 and 3.73(b). Accordingly, the motion is granted.

Knapp moves under 37 CFR 1.635 to cancel Claim 35, the sole involved claim in the Knapp application. The motion is granted. Knapp Claim 35 is identical to the count. Accordingly, the cancellation of Claim 35 is considered to be a disclaimer of the subject matter of the count and entry of adverse judgment against Knapp at this time is appropriate. 37 CFR § 1.662(a).

Order

It is

ORDERED that judgment on priority as to Count 1, the only count in this interference, is awarded against junior party, BRADLEY J. KNAPP, FRED M. KIMOCK, RUDOLPH HUGO PETRMICHL and NORMAN DONALD GALVIN;

FURTHER ORDERED that junior party, BRADLEY J. KNAPP, FRED M. KIMOCK, RUDOLPH HUGO PETRMICHL and NORMAN DONALD GALVIN, is not entitled to a patent containing claim 35 (corresponding to Count 1) of Application 09/048,016, filed March 25, 1998;

FURTHER ORDERED that the file of Patent 5,616,179 be transmitted to the appropriate PTO official for entry of a Certificate of Correction adding Bradley J. Knapp and Fred M. Kimock as additional inventors;

FURTHER ORDERED that if there is a settlement agreement and it has not already been filed, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661; and

FURTHER ORDERED that a copy of this decision be given appropriate paper numbers and entered into the file records of Application 09/048,016 and Patent 5,616,179.

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RICHARD E. SCHAFER))
Administrative Patent Judge))
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JAMESON LEE))
Administrative Patent Judge))
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_____))
SALLY GARDNER-LANE))
Administrative Patent Judge))

BOARD OF PATENT
APPEALS AND
INTERFERENCES

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Appendix

ORDER FILING OF PRELIMINARY MOTIONS AND STATEMENTS

Interference 104,579

1. TIME PERIOD 1 **October 30, 2000**
Filing preliminary motions
2. TIME PERIOD 2 **November 15, 2000**
Filing Rule 633(i) and
Rule 633(j) preliminary
motions
3. TIME PERIOD 3 **November 30, 2000**
Filing of oppositions to
all preliminary motions
4. TIME PERIOD 4 **December 21, 2000**
Filing of replies
5. TIME PERIOD 5 **January 19, 2001**
Filing of request for
hearing; motions to suppress
and observations with
respect to cross-examination
6. TIME PERIOD 6 **February 9, 2001**
Filing of oppositions to
motions to suppress and
any response to observations
with respect to cross-
examination

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| 7. | TIME PERIOD 7
Filing replies to
oppositions to motions
to suppress | March 2, 2001 |
| 8. | TIME PERIOD 8
Filing the record | March 16, 2001 |

ORDERPM5
Revised October 1999
(replaces ORDERPM4)