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Entered: December 11, 2018

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ESTRELLA ROGEL,
CESAR OVALLES, and MICHAEL MOIR,

Junior Party

(Application 12/833,814 and Application 13/294,609),

v.

JOHN F. SCHABRON
and JOSEPH F. ROVANI JR.,

Senior Party

(Patent 8,367,425).

Patent Interference No. 106,064
(Technology Center 1600)

Before SALLY GARDNER LANE, JAMES T. MOORE,
and DEBORAH KATZ, *Administrative Patent Judges*.

MOORE, *Administrative Patent Judge*.

JUDGMENT - Bd. R. 127(a)

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1 The Board determined that Schabron showed entitlement to benefit for
2 Count 1 of Provisional Application 60/711,599 (August 25, 2005) and
3 Nonprovisional Application 11/510,491 (August 25, 2006). (Decision, Paper 105).
4 This interference is redeclared to reflect that change. Paper 106.

5 Rogel's earliest alleged priority date of March 1, 2009 (Paper 38) is after
6 both of these dates. Accordingly, Rogel cannot prevail on priority.

7 Accordingly,

8 It is ORDERED that judgment on priority is entered against junior party
9 Rogel as to Count 1, the sole Count, of the interference (Declaration, Paper 1, at 4;
10 Redeclaration, Paper 94, at 4);

11 FURTHER ORDERED that claims 1, 4, 5, 7, 8, 10, and 12–20 of Rogel
12 application 13/294,609, which correspond to Count 1, are FINALLY REFUSED.
13 35 U.S.C. § 135(a);¹

14 FURTHER ORDERED that claims 1–28 of Rogel application 12/833,814,
15 which correspond to Count 1, are FINALLY REFUSED. 35 U.S.C. § 135(a);

16 FURTHER ORDERED that the parties are directed to 35 USC § 135(c)
17 and Bd. R. 205 regarding the filing of settlement agreements;

18 FURTHER ORDERED that a party seeking judicial review timely serve
19 notice on the Director of the United States Patent and Trademark Office.

20 37 C.F.R. §§ 90.1 and 104.2. *See also* Bd. R. 8(b). Attention is directed to *Biogen*
21 *Idec MA, Inc., v. Japanese Foundation for Cancer Research*, 785 F.3d 648,

1 Any reference to a statute in this Judgment is to the statute that was in effect on March
15, 2013 unless otherwise indicated. *See* Pub. L. 112-29, § 3(n), 125 Stat. 284, 293 (2011).

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1 654–57 (Fed. Cir. 2015) (determining that pre-AIA § 146 review was eliminated
2 for interference proceedings declared after September 15, 2012); and

3 FURTHER ORDERED that a copy of this judgment be entered into the
4 administrative records of the involved Schabron patent and Rogel applications.

cc (via electronic mail):

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