

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 54

Filed by: Fred E. McKelvey
Senior Administrative Patent Judge
Box Interference
Washington, D.C. 20231
Tel: 703-308-9797
Fax: 703-305-0942

Filed
18 December 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

VICTOR BRONSZTEIN,

Junior Party,
(Patent 5,766,520),

v.

BRUCE ROSER and ENDA MARTIN GRIBBON,

Senior Party
(Application 08/923,783).

Patent Interference 104,727 (McK)

MEMORANDUM OPINION and ORDER
(Decision denying Bronshtein Preliminary Motion 1)

A. Introduction

Bronshtein Preliminary Motion 1 (Paper 22) seeks entry of judgment of no interference-in-fact. 37 CFR § 1.633(b).

Contingent on Bronshtein Preliminary Motion 1 being granted, Roser Preliminary Motion 1 (Paper 30) seeks to present amended claims. 37 CFR § 1.633(i).

A motions panel (Judges McKelvey, Schafer and Torczon) has considered Bronshtein Preliminary Motion 1 and has unanimously determined that the motion should be denied. The decision is

being communicated to the parties via this ORDER so that the interference may proceed. A MEMORANDUM OPINION and ORDER making findings of fact and explaining the panel's rationale in support of the decision will follow in due course.

Times for taking other action during the preliminary motions phase of the interference appear in an order entered concurrently herewith.

B. Order

Upon consideration of Bronshtein Preliminary Motion 1 and Roser Preliminary Motion 1, and for reasons which will follow in a separate opinion to be entered in due course, it is

ORDERED that Bronshtein Preliminary Motion 1 is denied, with prejudice.

FURTHER ORDERED that the time for seeking reconsideration of the decision denying Bronshtein Preliminary Motion 1 shall be fourteen (14) days after entry of the "separate opinion" to be entered in due course.

FURTHER ORDERED that Roser Preliminary Motion 1 is dismissed without prejudice as moot.

Fred E. McKelvey
Senior Administrative Patent Judge

18 December 2001
Arlington, VA

104,727

cc (via fax and e-mail):

Attorney for Bronshtein
(real party in interest
Universal Preservation Technologies, Inc.):

Daniel E. Altman, Esq.
Brenton R. Babcock, Esq.
Mark R. Benedict, Esq.
KNOBBE MARTENS OLSON & BEAR LLP

Attorney for Roser
(real party in interest
Quadrant Healthcare (U.K.) Limited,
a wholly owned subsidiary of
Quadrant Healthcare PLC (U.K.):

Debra A. Shetka, Esq.
Thomas E. Ciotti, Esq.
Madeline I. Johnston, Esq.
MORRISON & FOERSTER, LLP