

THIS OPINION WAS WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today is binding precedent of the Interference Trial Section of the Board of Patent Appeals and Interferences. The opinion is otherwise not binding precedent. The decision was entered on 9 February 1999

Paper No. 25

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9 February 1999

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

DADGAR,

Junior Party,

v.

GILL,
Senior Party

Patent Interference No. 104,249

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

McKELVEY, Senior Administrative Patent Judge.

ORDER

A. Background

Receipt is acknowledged of a paper styled JOINT
COMMUNICATION FROM PARTIES *** DADGAR AND *** GILL (Paper 24).

According to the paper, "meaningful settlement negotiations must include business representatives of the parties," but "[s]cheduling difficulties have prevented a meeting of business representatives within the time frame" set out in the NOTICE

DECLARING INTERFERENCE (Paper 1). Further according to the paper, "[t]he parties intend to hold settlement discussions as soon as representatives' schedules permit"

One possible reading of the information provided in the paper that an interference is to be conducted in a manner solely for the convenience of the parties. However, the interference rules recognize another consideration, i.e., the need for the exercise of discretion by the board in carrying out its duty of managing the administrative process, the business of the board and the administration of justice in a fair and even-handed manner. Compare Rosemount, Inc. v. Beckman Instruments, Inc., 727 F.2d 1540, 1549-50, 221 USPQ 1, 10 (Fed. Cir. 1984) (discussing a similar balance and need with respect to district courts under the Federal Rules of Civil Procedure).

The paper does not say what effort was made by the business representatives to meet to discuss settlement. Likewise, the paper sets forth no date when settlement discussions are expected to take place. Hence, the paper makes it clear that the proceedings in this interference may be unacceptably open-ended.

In an effort to minimize the possibility that delays in conducting settlement discussions will otherwise delay times for taking action in the interference, entry of an order is believed to be necessary. Presently, preliminary motions are due on or before 12 March 1999. The order will provide that unless settlement discussions take place and the board is notified of

the results of those settlement discussions, all before 8 March 1999, no preliminary motions can be filed.

B. Order

Upon consideration of the paper styled JOINT COMMUNICATION FROM PARTIES *** DADGAR AND *** GILL (Paper 24), and for the reasons given, it is

ORDERED that unless on or before **8 March 1999** settlement discussions take place and the board is notified of the results of those settlement discussions, no preliminary motions can be filed.

FURTHER ORDERED that this opinion shall be published without identifying the parties or their counsel.

FRED E. MCKELVEY, Senior)	
Administrative Patent Judge)	
)	
RICHARD E. SCHAFER)	
Administrative Patent Judge)	BOARD OF PATENT
)	APPEALS AND
JAMESON LEE)	INTERFERENCES
Administrative Patent Judge)	
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RICHARD TORCZON)	
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9 February 1999
Arlington, VA

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