

UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT TRIAL AND APPEAL BOARD

NOVA ORTHO-MED, INC.
(8,141,719),
Junior Party,

v.

KRATOS ENTERPRISES, LLC
(11/941,835),
Senior Party.

Patent Interference 105,975

Before RICHARD E. SCHAFER, SALLY GARDNER LANE and
HUNG H. BUI, *Administrative Patent Judges*.

PER CURIUM

Judgment - Merits - 37 C.F.R. § 41.127

1 In a decision issued simultaneously with this judgment, we denied Junior
2 Party Nova's motion on priority (Paper 135) and granted Senior Party Kratos'
3 priority motion (Paper 222). Because Nova did not establish a date of invention
4 prior to Senior Party Kratos' actual reduction to practice, we award a judgment of
5 priority against Nova.

6 Accordingly it is—

7 ORDERED that Judgment on priority is entered against Nova for the subject
8 matter of Count 1 (Paper 1, p. 3);

1 FURTHER ORDERED that Junior Party Nova is not entitled to a patent
2 including the subject matter of Claims 1-2 of Nova's involved Patent 8,141,719

3 FURTHER ORDERED that Claims 1-2 of Nova's involved Patent
4 8,141,719 are cancelled (35 U.S.C. § 135(a) (2011));

5 FURTHER ORDERED that a copy of this judgment shall be entered in the
6 administrative records of each of the involved patent and the involved application;

7 FURTHER ORDERED that if there is any settlement agreement or related
8 documents which have not been filed, attention is directed to 35 U.S.C. § 135(c)
9 (2011) and 37 C.F.R. § 41.205; and

10 FURTHER ORDERED that if a party seeks judicial review, the party must
11 file a notice with the Board (37 C.F.R. § 41.8(b)) within seven days of initiating
12 judicial review.

13 We also direct the parties' attention to *Biogen MA, Inc., v. Japanese*
14 *Foundation for Cancer Research*, 785 F.3d 648 (Fed. Cir. 2015).

cc (via email):

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