

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2010-1060
(Serial No. 09/830,306)

IN RE DAVID JOHN BENJAMIN PEARCE and JON ALASTAIR GIBBS,

Appeal from the United States Patent and Trademark Office, Board of
Patent Appeals and Interferences.

ON MOTION

Before MICHEL, Chief Judge, FRIEDMAN and LINN, Circuit Judges.

LINN, Circuit Judge.

ORDER

The Director of the Patent and Trademark Office moves without opposition to remand this appeal for further proceedings.

John Benjamin Pearce et al. (Pearce) appeal from a decision of the United States Patent and Trademark Office, Board of Patent Appeals and Interferences that reversed rejections of certain claims but failed to address all the claims for which Pearce had requested rehearing. In the papers submitted, the Director concedes that the Board should have addressed these claims. We agree. Because the Board should have addressed all the claims on rehearing presented by Pearce, we vacate the Board decision and the case is remanded for the Board to address all claims properly raised below. See In re Beaver, 893 F.2d 329, 330 (Fed. Cir. 1989) (vacating decision for failure to address all claims raised before the Board).

Accordingly,

IT IS ORDERED THAT:

(1) The decision is vacated and the case is remanded for further proceedings consistent with this order.

(2) Each side shall bear its own costs.

FOR THE COURT

MAR 24 2010

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Lawrence John Chapa, Esq.
Raymond T. Chen, Esq.

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ISSUED AS A MANDATE: MAR 24 2010

FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

MAR 24 2010

JAN HORBALY
CLERK