

BHS

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper No. 68

Filed by: Merits Panel
Interference Trial Section
Box Interference
Washington, D.C. 20231
Tel: 703-308-9797
Fax: 703-305-0942

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

ROBIN CARLSON,

Junior Party,
(Application 08/846,216)¹,

v.

KEVIN WALD, ROBIN CARLSON
and RICHARD MOEN,

Senior Party,
(Patent 5,794,852)².

FAXED

APR 17 2002

**PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES**

Patent Interference No. 104,318

Before SCHAFER, LEE and MEDLEY, Administrative Patent Judges.
LEE, Administrative Patent Judge.

JUDGMENT

The common assignee Case Corporation having filed, on April 15, 2002, an election in favor of the senior party's

¹ Filed April 28, 1997. Accorded the benefit of Application 08/555,638, filed November 8, 1995, now Patent No. 5,794,852. The real party in interest is Case Corporation.

² Based on Application 08/555,638, filed November 8, 1995. The real party in interest is Case Corporation.

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involved Patent No. 5,794,852, it is now time appropriate to enter adverse judgment against the junior party.³

It is

ORDERED that judgment as to the subject matter of Counts 1-6 is herein entered against junior party ROBIN CARLSON;

FURTHER ORDERED that junior party ROBIN CARLSON is not entitled to claim 28 of his involved application which corresponds to Count 1, claim 33 of his involved application which corresponds to Count 2, claim 29 of his involved application which corresponds to Count 3, claim 30 of his involved application which corresponds to Count 4, claim 31 of his involved application which corresponds to Count 5, and claim 32 of his involved application which corresponds to Count 6;

FURTHER ORDERED that any and all pending motions or requests filed by the junior party in this interference, which have not yet been decided, are herein dismissed in light of withdrawal of the same by the common assignee in Paper No. 66 filed on April 15, 2002; and

FURTHER ORDERED that the parties should note that failure to file a copy of any agreement regarding the termination of this

³ The junior party did not contact the judge to which this case is assigned to raise any objection to the orders contained in Paper No. 65 regarding the making of an election by the common assignee. An opportunity for the junior party to call the judge at a certain time was provided in Paper No. 65.

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proceeding may render the agreement and any resulting patents
unenforceable. See 35 U.S.C. § 135(c) and 37 CFR § 1.661.

Richard E. Schafer

Richard E. Schafer)
Administrative Patent Judge)

Jameson Lee
Jameson Lee)
Administrative Patent Judge)

BOARD OF PATENT
APPEALS
AND
INTERFERENCES

Sally C. Medley

Sally C. Medley)
Administrative Patent Judge)

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By Federal Express

Junior Party Carlson (real party in interest:
Case Corporation):

Robin W. Carlson, Esq.
619 Elm Street
Pella, Iowa 50219

By Facsimile and Federal Express:

Attorney for Senior Party WALD (real party in interest:
Case Corporation):

Steven B. Kelber, Esq.
Piper Marbury Rudnick & Wolfe LLP
1200 Nineteenth Street, N.W.
Washington, D.C. 20036-2430
202-223-2085