

**THIS OPINION WAS NOT WRITTEN FOR PUBLICATION
and is not binding precedent of the Board**

Paper No. 45

Filed by: Trial Section Merits Panel
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

PAUL E. LITCHFIELD, MATTHEW J. MONTROSS,
STEVEN F. SMITH, J. SPENCER WHITE,
and ALEXANDER W. JESSIMAN

Junior Party,
(Patent 5,771,606),

v.

MARION FRANKLIN RUDY

Senior Party
(Application 09/024,353).

Patent Interference No. 104,510

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

JUDGMENT PURSUANT TO 37 CFR § 1.662

Upon consideration of the JOINT REQUEST FOR ADVERSE JUDGMENT
(Paper 44) filed by Rudy and Litchfield, it is

ORDERED that judgment on priority as to Count 1 (Paper 1, pages 49-50), the sole count in the interference, is awarded against junior party Paul E. Litchfield, Matthew J. Montross, Steven F. Smith, J. Spencer White, and Alexander W. Jessiman.

FURTHER ORDERED that junior party Paul E. Litchfield, Matthew J. Montross, Steven F. Smith, J. Spencer White, and Alexander W. Jessiman is not entitled to a patent containing claims 1-11 and 18-25 (corresponding to Count 1) of U.S. Patent 5,771,606, granted 30 June 1998, based on application 08/697,895, filed 3 September 1996.

FURTHER ORDERED that judgment on priority as to Count 1 (Paper 1, pages 49-50), the sole count in the interference, is awarded against senior party Marion Franklin Rudy.

FURTHER ORDERED that senior party Marion Franklin Rudy is not entitled to a patent containing claim 43 (corresponding to Count 1) of application 09/024,353, filed 17 February 1998.

FURTHER ORDERED that a copy of this paper shall be made of record in files of application 09/024,353 and U.S. Patent 5,771,606.

FURTHER ORDERED that if there is a settlement agreement, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661.

_____)	
RICHARD E. SCHAFER)	
Administrative Patent Judge)	
)	
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_____)	BOARD OF PATENT
JAMESON LEE)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
)	
)	
_____)	
SALLY C. MEDLEY)	
Administrative Patent Judge)	

cc (via federal express and facsimile):

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