

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and is not binding precedent of the Board**

Paper No. 8

Filed by: Trial Section Merits Panel
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

RONALD A. DRAKE and NICKOLAS J. RISTICH,
Junior Party,
(Application 09/606,498),

v.

GERARD G. GEIGER,

Senior Party,
(Patent 5,937,488).

Patent Interference No. 104,569

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

JUDGMENT PURSUANT TO 37 CFR § 1.662

On July 2, 2001, junior party Drake was ordered to show cause why adverse judgment as to the subject matter of the count should not be entered against Drake. (Paper 2). Junior party had until July 18, 2001 to respond to the ORDER TO SHOW CAUSE. Junior party Drake did not respond.

On July 18, 2001, board personnel placed a telephone call to counsel for Drake inquiring whether Drake would respond to the Order to Show Cause. Counsel for Drake indicated that it will not respond to the ORDER TO SHOW CAUSE.

Upon consideration of the record, it is

ORDERED that judgment on priority as to Count 1 (Paper 1 at 49), the sole count in the interference, is awarded against junior party RONALD A. DRAKE and NICKOLAS J. RISTICH.

FURTHER ORDERED that junior party RONALD A. DRAKE and NICKOLAS J. RISTICH is not entitled to a patent containing claims 17-29 (corresponding to Count 1) of application 09/606,498, filed 29 June 2000.

FURTHER ORDERED that a copy of this paper shall be made of record in files of application 09/606,498 and U.S. Patent 5,937,488.

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

_____)	
JAMESON LEE)	
Administrative Patent Judge)	
)	
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_____)	BOARD OF PATENT
CAROL A. SPIEGEL)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
)	
)	
_____)	
SALLY C. MEDLEY)	
Administrative Patent Judge)	

cc (via federal express):

Attorney for Drake:

Jeffrey A. Sedlar
300 Renaissance Center
Legal Staff Mail Code 482 C23 B21
Detroit, MI 48265-3000

Attorney for Geiger:

Daniel D. Ryan
RYAN, KROMHOLZ & MANION, S.C.
3360 Gateway Road
Brookfield, WI 53045