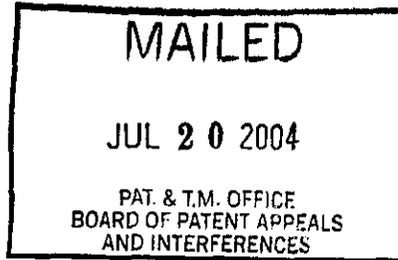


**THIS DOCUMENT WAS NOT WRITTEN FOR PUBLICATION  
AND IS NOT BINDING PRECEDENT OF THE BOARD**

Filed by: Trial Section Merits Panel  
Mail Stop INTERFERENCE  
Board of Patent Appeals and Interferences  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
Tel: 703-308-9797 Fax: 703-305-0942



Paper No. 40

**UNITED STATES PATENT AND TRADEMARK OFFICE**

---

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

---

**DONAT ELSENER and DANIEL RYSER,  
Junior Party,  
(Patent 6,555,792 B1)<sup>1</sup>**

v.

**HON SIU SHIN, JEW KWEE GUI, ADRIAN FAWCETT,  
KENNETH P. CHAO, GARY L. BORDENKIRCHER,  
JESSICA BARZILAI AND DONALD R. SANDELL,  
Senior Party  
(Application 09/496,408)<sup>2</sup>**

---

Patent Interference No. 105,141

---

Before SCHAFFER, LEE and MEDLEY, Administrative Patent Judges.

LEE, Administrative Patent Judge.

**JUDGMENT – RULE 602**

---

<sup>1</sup> Based on Application 09/672,726, filed September 28, 2000. The real party in interest is Applera Corporation. Paper No. 36.

<sup>2</sup> Filed February 2, 2000. The real party in interest is Applera Corporation.

Interference No. 105,141  
Elsener v. Shin

On July 15, 2004, a response to the show cause order of June 15, 2004, was filed, in which the common assignee Applera Corporation elects the junior party Elsener as being entitled to priority as to the subject matter of the count. Accordingly, it is

**ORDERED** that judgment as to the subject matter of the sole count, Count 1, is hereby entered against senior party HON SIU SHIN, JEW KWEE NGUI, ADRIAN FAWCETT, KENNETH P. CHAO, GARY L. BORDENKIRCHER, JESSICA BARZILAI and DONALD R. SANDELL;

**FURTHER ORDERED** that senior party HON SIU SHIN, JEW KWEE NGUI, ADRIAN FAWCETT, KENNETH P. CHAO, GARY L. BORDENKIRCHER, JESSICA BARZILAI and DONALD R. SANDELL is not entitled to claims 1, 2, 4, 6-8, 10, 18-23 and 40-42 of its involved application 09/496,408;

**FURTHER ORDERED** that if there is a settlement agreement, the parties should note the requirements of 35 U.S.C. § 135(c) and 37 CFR § 1.666; and

**FURTHER ORDERED** that a copy of this judgment be filed in the respective involved application or patent of the parties.



Interference No. 105,141  
Elsener v. Shin

By Facsimile:

Attorney for junior party Elsener:

415-576-0300 (Fax)  
Guy W. Chambers, Esq.  
TOWNSEND AND TOWNSEND AND CREW LLP  
Two Embarcadero Center, 8<sup>th</sup> Floor  
San Francisco, California 94111-3834

Attorney for senior party Shin:

202-408-4400 (Fax)  
M. Paul Barker, Esq.  
FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.  
1300 I Street, N.W., Suite 700  
Washington, D.C. 20005-3315