

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 166

Filed by: Merits Panel
Mail Stop Interference
P.O. Box 1450
Alexandria, VA 22313-1450
Tel: 571-272-9797
Fax: 571-273-0042

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
(Administrative Patent Judge James T. Moore)

RICHARD R. **BOTT** and ANDREW SHAW

Junior Party
(Patent 5,763,385)

v.

ALLEN **SVENDSEN**, HENRIK BISGARD-FRANTZEN,
and TORBEN BORCHERT

Senior Party
(Application 09/327,563)

Patent Interference No. **105,206** (JTM)

Judgment - Request For Adverse - Bd.R. 127(b)

Before TORCZON, LANE, and MOORE, *Administrative Patent Judges*

Bott has filed paper 165, which is a request for adverse judgment.

Upon consideration of the Request for Adverse Judgment, it is hereby:

ORDERED that judgment on priority as to Count 3 (Paper 154, page 4)¹ is awarded against Junior Party Richard R. Bott and Andrew Shaw.

FURTHER ORDERED that Junior Party Richard R. Bott and Andrew Shaw is not entitled to a patent containing Bott claims 1 through 28 (corresponding to Count 3)(Paper 155, page 2)².

FURTHER ORDERED that a copy of this paper shall be made of record in files of application 09/327,563 and patent 5,763,385.

FURTHER ORDERED that the parties shall direct attention to 35 U.S.C. § 135(c) and 37 CFR § 41.205(a) [see former rules 37 CFR §1.661 and §1.666] regarding the filing of settlement agreements.

<u>/Richard Torczon/</u>)	
ADMINISTRATIVE PATENT JUDGE)	
)	
)	
<u>/Sally Gardner Lane/</u>)	BOARD OF PATENT
ADMINISTRATIVE PATENT JUDGE)	APPEALS AND
)	INTERFERENCES
)	
<u>/James T. Moore/</u>)	
ADMINISTRATIVE PATENT JUDGE)	

¹ Count 3 is “[a] composition of matter in accordance with any one of claims 192, 214, 215, 216, 217, or 218 of Svendsen application 09/327,563.”

² Paper 155 corrected the correspondence of Bott’s claims 1-28, omitted from Paper 154, as corresponding to Count 3.

cc (via fax):

Counsel for BOTT:

Samuel B. Abrams, Esq.
Jones Day
222 East 41st Street
New York, NY 10017-6702

Tel: 212-326-3875
Fax: 212-755-7306

Counsel for SVENDSEN:

John T. Callahan, Esq.
Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Suite 800
Washington, D.C. 20037

Tel: 202-293-7060
Fax: 202-293-7860