

The opinion in support of the decision being entered today is not  
binding precedent of the Board.

Paper 76

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

Filed 29 September 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

SHUNONG YANG, WILLIAM F. McCOY,  
and  
ANTHONY W. DALLMIER  
Junior Party  
(Patent 6,423,473 B1),

v.

ROBERT M. MOORE  
and  
CHRISTOPHER J. NALEPA  
Senior Party  
(Application 09/785,890).

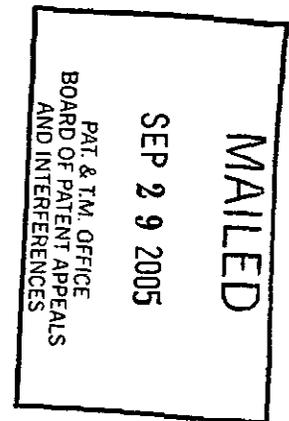
Patent Interference No. 105,230

Before SCHAFFER, DELMENDO, and MOORE, Administrative Patent  
Judges.

MOORE, Administrative Patent Judge.

**Judgment - Bd.R. 127**

Panel decisions on motions (Papers 72 and 73) have been  
rendered in this interference. All involved claims of both  
parties, including the claim defining the count, are



unpatentable. Accordingly, a count cannot be formulated, and it is inappropriate to continue to the priority phase of this interference. Therefore, it is:

**ORDERED** that judgment as to the subject matter of Count 1 (Paper 1, p. 5) is awarded against both parties;

**FURTHER ORDERED** that junior party, SHUNONG YANG, WILLIAM F. McCOY, and ANTHONY W. DALLMIER is not entitled to a patent containing Claims 1-13 of patent 6,287,473;

**FURTHER ORDERED** that senior party, ROBERT M. MOORE and CHRISTOPHER J. NALEPA is not entitled to a patent containing Claims 6-10 of application 09/785,890;

**FURTHER ORDERED** that a copy of this judgment be made of record in the files of application 09/785,890 and patent 6,287,473; and

**FURTHER ORDERED** that if there is any settlement agreement which has not been filed, the parties shall direct attention to 35 U.S.C. § 135(c) and 37 CFR § 41.205.

<u>/Richard E. Schafer/</u>	)	
RICHARD E. SCHAFER	)	
Administrative Patent Judge	)	
	)	
<u>/Romulo H. Delmendo/</u>	)	BOARD OF PATENT
ROMULO H. DELMENDO	)	
Administrative Patent Judge	)	APPEALS AND
	)	
<u>/James T. Moore/</u>	)	INTERFERENCES
JAMES T. MOORE	)	
Administrative Patent Judge	)	

cc (First class mail):

Attorney for Yang:  
GEORGE H. GERTSMAN, ESQ.  
SEYFARTH SHAW LLP  
55 E. MONROE ST.  
SUITE 4200  
CHICAGO, IL 60603-5803  
Tel: (312) 346-8000  
Fax: (312) 269-8869

Attorney for Moore:  
JAMES M. OLSEN, ESQ.  
GARY A. BRIDGE, ESQ.  
CONNOLLY BOVE LODGE & HUTZ LLP  
THE NEMOURS BUILDING  
1007 NORTH ORANGE ST.  
WILMINGTON, DE 19801  
Tel: (302) 658-9141  
Fax: (302) 658-5614