

Trial Division Merits Panel  
Mail Stop Interference  
P.O. Box 1450  
Alexandria Va 22313-1450  
Tel: 571-272-9797  
Fax: 571-273-0042

Paper 16

Filed: November 16, 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

---

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

---

Paul S. Waterman  
Junior Party  
(Patent 5,714,530)

v.

Jean-Luc Birbaum  
Jean Rody, Mario Slongo, Andreas Valet  
and  
Roland A. E. Winter  
Senior Party  
(Application 10/453,014)

---

Patent Interference No. 105,391 (JTM)

---

**Judgment - Request for Adverse - Bd. R. 127(b)**

**Before Torczon, Lane, and Moore, Administrative Patent Judges.**

Waterman has conceded priority as regards to claims 1-115 of Waterman 5,714,530. See Paper 14. This interference has been redeclared. See Paper 15.

Upon consideration of the admissions of Waterman as outlined in Papers 14 and 15, and Waterman's request for adverse judgment (Paper 13), it is hereby:

**ORDERED** that judgment on priority as to Count 2 (Paper 15, page 2) is awarded against Junior Party Waterman.

**FURTHER ORDERED** that Junior Party Waterman is not entitled to a patent containing claims 1-115 (corresponding to Count 2) of patent 5,714,530.

**FURTHER ORDERED** that a copy of this paper shall be made of record in files of application 10/453,014 and patent 5,714,530.

**FURTHER ORDERED** that the parties shall promptly file any settlement agreements relating to this interference, as per 35 U.S.C. § 135(c) and 37 CFR § 41.205(a).

<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	)	

cc (via fax):

Attorney for Birbaum:  
John T. Miller, Esq.  
WENDEROTH LIND & PONACK, LLP  
2033 K. St. NW SUITE 800  
WASHINGTON DC 20006  
Fax: (202) 721-8250

Attorney for Waterman:

Fran Wasserman, Esq.  
CYTEC INDUSTRIES INC  
1937 WEST MAIN STREET  
P O BOX 60  
STAMFORD CT 06904-0060  
Fax: (203) 321-2971