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Paper No. 39

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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JAMES M. HULL, KENT FIELDEN  
HANS MULDER and HARSHVARDHAN SHARANGPANI

Junior Party  
(Patent No. 5,922,065)<sup>1</sup>

v.

HOWARD G. SACHS and SIAMAK ARYA

Senior Party,  
(Application 09/057,861)<sup>2</sup>

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Patent Interference No. 104,790

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Before LEE, SPIEGEL and MEDLEY, Administrative Patent Judges.

LEE, Administrative Patent Judge.

**JUDGMENT**

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<sup>1</sup> Based on application 08/949,279, filed October 13, 1997. The real party in interest is Institute For The Development of Emerging Architectures, LLC.

<sup>2</sup> Filed April 9, 1998. Accorded the benefit of Patent No. 5,794,003, based on application 08/754,337, filed November 22, 1996. The real party in interest is Intergraph Corporation.

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On August 27, 2002, senior party Sachs filed a paper entitled "SACHS ABANDONMENT OF CONTEST UNDER 37 CFR § 1.662(a)" (Paper No. 38), in which party Sachs states:

Under 37 CFR § 1.662(a) Sachs hereby abandons the contest to the count of this interference in view of a settlement agreement between parties.

It should be noted that abandonment of contests are the same as concessions of priority and requests for entry of adverse judgment under 37 CFR § 1.662 and are effective regardless of whether another party fulfills its obligation under any settlement agreement between the parties.

Sachs' abandonment of contest is treated as an unconditional request for entry of adverse judgment. The request is **Granted**.

If party Sachs intended that somehow the abandonment of contest would be ineffective unless some other condition is met, that should be raised and clarified in a timely request for reconsideration filed concurrently with a miscellaneous motion to vacate this judgment.

In light of the foregoing, it is

**ORDERED** that judgment as to the subject matter of the count is herein entered against senior party HOWARD G. SACHS and SIAMAK ARYA;

**FURTHER ORDERED** that senior party HOWARD G. SACHS and

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SIAMAK ARYA is not entitled to its application claims 131-146  
which correspond to the sole count;

**FURTHER ORDERED** that a copy of this paper will be given a  
paper number and entered in the involved application or patent of  
the respective parties; and

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

_____	)	
Jameson Lee	)	
Administrative Patent Judge	)	
	)	
	)	
	)	BOARD OF PATENT
	)	APPEALS
_____	)	
Carol A. Spiegel	)	AND
Administrative Patent Judge	)	INTERFERENCES
	)	
	)	
	)	
_____	)	
Sally C. Medley	)	
Administrative Patent Judge	)	

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