

UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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Interference No. 104,792

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**SONORAN DESERT CHEMICALS LLC**  
(5,532,215),  
Junior Party,

v.

**STEPHEN EISENBERG,**  
SHARON M. WAHL, and ROBERT C. THOMPSON  
(08/485,438),  
Senior Party.

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Before **TORCZON, LANE, and NAGUMO**, Administrative Patent Judges.

**JUDGMENT**  
(PURSUANT TO 37 CFR § 1.662(a))

INTRODUCTION

On 19 May 2003 at about 2 p.m. (Eastern), the parties initiated a telephone conference involving John Lezdey for Sonoran Desert Chemicals LLC (SDC), Paul Barker and Robert Sharp for Eisenberg, and Richard Torczon for the Board of Patent Appeals and Interferences. The parties were required to have settled the case or to have filed preliminary statements by the close of business on 19 May 2003.

Mr. Lezdey indicated that collateral litigation bars him from taking further action in this interference. The parties indicated that neither side would be filing a preliminary statement. Failure of a junior party to file a timely preliminary statement ordinarily results in the issuance of an order to show cause against the junior party. In the present circumstances, there would be no

point to such an order since Mr. Lezdey has indicated that he cannot respond. Consequently, SDC has abandoned the contest within the meaning of 37 C.F.R. § 1.662(a).

ORDER

Based on the status of the proceeding and of the parties, it is:

ORDERED that judgment on priority as to Count 1 is awarded against junior party Sonoran Desert Chemicals LLC;

FURTHER ORDERED that Sonoran Desert Chemicals LLC, John Lezdey, and Allan Wachter, jointly and severally, are not entitled to a patent containing claims 1 and 3-5 of SDC's 5,532,215 patent, which correspond to Count 1;

FURTHER ORDERED that any request for reconsideration be filed within one month from the date of this judgment; and

FURTHER ORDERED that a copy of this decision be entered in the administrative record of SDC's 5,532,215 patent and of Eisenberg's 08/485,438 application.

RICHARD TORCZON  
Administrative Patent Judge

SALLY GARDNER LANE  
Administrative Patent Judge

MARK NAGUMO  
Administrative Patent Judge

BOARD OF PATENT  
APPEALS AND  
INTERFERENCES

INTERFERENCE  
TRIAL SECTION

**Notice:** Any agreement or understanding between parties to this interference, including any collateral agreements referred to therein, made in connection with or in contemplation of the termination of the interference, shall be in writing and a true copy thereof filed in the United States Patent and Trademark Office before termination of the interference as between said parties to the agreement or understanding. 35 U.S.C. 135(c); 37 C.F.R. § 1.661.



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