

**THIS OPINION WAS NOT WRITTEN FOR PUBLICATION
and is not binding precedent of the Board**

Paper No. 44

Filed by: Trial Section Merits Panel
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

DALE SUNDBY
Junior Party
(Patent 08/819,190),

v.

DAVID W. ROTH and DYLAN SALISBURY

Senior Party
(Application 08/787,979).

Patent Interference No. 104,443

Before LEE, GARDNER-LANE and MEDLEY, Administrative Patent Judges.

MEDLEY, Administrative Patent Judge.

JUDGMENT PURSUANT TO 37 CFR § 1.662

On January 17, 2001, junior party Sundby was ordered to show cause why adverse judgment as to the subject matter of the count should not be entered against Sundby. (Paper 43). Junior party had 20 days from January 17, 2001 to respond to the ORDER TO SHOW CAUSE. Junior party Sundby has not responded. During a

telephone conference call initiated by Board personnel on February 7, 2001, counsel for party Sundby indicated that party Sundby will not respond to the ORDER TO SHOW CAUSE.

Upon consideration of the record, it is

ORDERED that judgment on priority as to Count 1 (Paper 1 at 49), the sole count in the interference, is awarded against junior party Dale Sundby.

FURTHER ORDERED that junior party Dale Sundby is not entitled to a patent containing claim 19 (corresponding to Count 1) of application 08/819,190, filed 17 March 1997.

FURTHER ORDERED that a copy of this paper shall be made of record in files of application 08/819,190 and application 08/787,979.

FURTHER ORDERED that if there is a settlement agreement, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661.

_____)	
JAMESON LEE)	
Administrative Patent Judge)	
)	
)	
_____)	BOARD OF PATENT
SALLY GARDNER-LANE)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
)	
)	
_____)	
SALLY C. MEDLEY)	
Administrative Patent Judge)	

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