

**THIS OPINION WAS NOT WRITTEN FOR PUBLICATION
AND IS NOT BINDING PRECEDENT OF THE BOARD**

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Paper No. 68

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

PATRICK D. ELLIS and FRED MALICKI

Junior Party
(Application 5,810,701)¹

v.

KENT FULKS

Senior Party,
(Application 09/095,360)²

Patent Interference No. 104,788

Before LEE, LANE and MEDLEY, Administrative Patent Judges.

LEE, Administrative Patent Judge.

MEMORANDUM OPINION AND FINAL JUDGMENT

¹ Based on application 08/877,290, filed June 17, 1997. The real party in interest is Northland Industries, Inc.

² Filed June 10, 1998. Accorded the benefit of application 08/667,428, filed June 21, 1996.

Interference No. 104,788
Ellis v. Fulks

The motion panel's decision on preliminary and miscellaneous motions, dated February 19, 2003 (Paper No. 61), is herein made final and merged into this memorandum opinion and final judgment for purposes of judicial review. It is

ORDERED that judgment as to the subject matter of Count 1 is entered against junior party PATRICK D. ELLIS and FRED MALICKI;

FURTHER ORDERED that junior party PATRICK D. ELLIS and FRED MALICKI is not entitled to its patent claims 1-20 which correspond to the count;

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

FURTHER ORDERED that a copy of this judgment be filed in the respective involved application or patent of the parties.

_____)	
Jameson Lee)	
Administrative Patent Judge)	
)	
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)	
_____)	BOARD OF PATENT
Sally Gardner Lane)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
_____)	
Sally C. Medley)	
Administrative Patent Judge)	

By Facsimile:

Interference No. 104,788
Ellis v. Fulks

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