

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AND IS NOT BINDING PRECEDENT OF THE BOARD**

Filed by: Trial Section Merits Panel  
Box Interference  
Washington, D.C. 20231  
Tel: 703-308-9797  
Fax: 703-305-0942

Paper No. 39

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

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>

---

Patent Interference No. 104,790

---

Before LEE, SPIEGEL and MEDLEY, Administrative Patent Judges.

LEE, Administrative Patent Judge.

---

Interference No. 104,790  
Hull v. Sachs

**JUDGMENT**

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

Interference No. 104,790  
Hull v. Sachs

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

Interference No. 104,790  
Hull v. Sachs

By Federal Express:

Counsel for junior party Hull:

William E. Booth, Esq.  
Fish & Richardson P.C.  
225 Franklin Street  
Boston, Massachusetts 02110-2804

Counsel for senior party Sachs:

Edward J. Keeling, Esq.  
TOWNSEND & TOWNSEND and CREW  
Two Embarcadero Center, 8<sup>th</sup> Floor  
San Francisco, California 94111-3834