

FILED

OCT 21 2003

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

NANCY MAYER WHITTINGTON, CLERK  
U.S. DISTRICT COURT

J.R. JOCELYN PARÉ,  
238 Woodpark Way  
Nepean, Ontario, Canada K2G 3R6,  
an individual,  
Plaintiff,

v.

ARCHIMEX,  
P.I.B.S.  
Case Postade 31  
Vannes Cedex  
France 56038,  
a Foreign Corporation,  
Defendant.

Civil Action No. \_\_\_\_\_

CASE NUMBER 1:03CV02155

JUDGE: John Garrett Penn

DECK TYPE: General Civil

DATE STAMP: 10/21/2003

COMPLAINT

1. This is an action to obtain a reversal of a decision by the Board of Patent Appeals and Interferences of the United States Patent and Trademark Office awarding priority to the defendant and refusing to award a patent to plaintiff.

2. Plaintiff, J.R. Jocelyn Paré ("Paré"), is a citizen of Canada residing at 238 Woodpark Way, Nepean, Ontario, Canada K2G 3R6.

3. Defendant Archimex is a corporation organized and existing under the laws of the Country of France having a place of business at P.I.B.S., Case Postade 31, Vannes Cedex, France 56038. Archimex is the real party in interest.

4. This action arises under 35 U.S.C. § 146 as hereinafter more fully appears. Archimex resides in a foreign country and therefore venue is proper in this district under 35 U.S.C. § 146.

5. On April 27, 2001, the PTO declared an interference, no. 104,692, between patent no. 5,884,817 issued to Paré and application 09/102,788 filed by Philippe Mengal and Bernard Mompon. The real party in interest of the Mengal and Mompon application is Archimex.

6. On August 21, 2003, the Board of Patent Appeals and Interferences incorrectly issued an order awarding priority as to the count in interference against Paré, and incorrectly ordering that Paré is not entitled to a patent containing claims of patent no. 5,884,817 which correspond to the count.

7. The Board of Patent Appeals and Interferences erred in finding that the intermittent application of vacuum or reduced pressure during the application of microwaves was not inherently disclosed in Paré's patents, U.S. applications and a Canadian application.

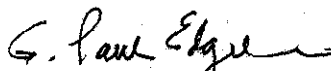
8. The Board of Patent Appeals and Interferences erred in holding that Mengal's involved claims are not obvious over the prior art.

WHEREFORE, Paré prays:

1. That this Court reverse the judgment by the Board of Patent Appeals and Interferences and award Paré priority as to the count in interference;

2. That this Court reverse the judgment by the Board of Patent Appeals and Interferences and award Paré a patent containing claims 1-15 of patent no. 5,884,417; and

3. For such other and further relief as the Court may deem just and proper under the circumstances.



G. Paul Edgell (D.C. Bar ID No. 3699) ✓

FITCH, EVEN, TABIN & FLANNERY

1801 K Street, N.W., Suite 401L

Washington, D.C. 20006-1201

(202) 419-7000

Karl R. Fink

John F. Flannery

FITCH, EVEN, TABIN & FLANNERY

120 South LaSalle Street, Suite 1600

Chicago, Illinois 60603

(312) 577-7000

*Attorneys for Plaintiff, J.R. Jocelyn Paré*

325743