

53 F.3d 1583, *, 1995 U.S. App. LEXIS 10565, **;
35 U.S.P.Q.2D (BNA) 1383

LEXSEE 53 F3D 1583

**IN RE GARY M. BEAUREGARD, LARRY K. LOUCKS, KHOA DANG NGUYEN
and ROBERT J. URQUHART ON MOTION**

95-1054

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

53 F.3d 1583; 1995 U.S. App. LEXIS 10565; 35 U.S.P.Q.2D (BNA) 1383

May 12, 1995, Decided

PRIOR HISTORY: [**1] Appealed from: United States Patent and Trademark Office Board of Patent Appeals and Interferences.

COUNSEL: Nancy J. Linck, Solicitor, Albin F. Drost, Deputy Solicitor and Richard Torczon, Associate Solicitor, Office of the Solicitor, of Arlington, Virginia, were on the Commissioner of Patents and Trademarks motion to dismiss for lack of jurisdiction.

Robert Greene Sterne, Sterne, Kessler, Goldstein & Fox, of Washington, D.C., was on Appellants' response to the Commissioner's motion to dismiss for lack of jurisdiction.

JUDGES: Before ARCHER, Chief Judge.

OPINIONBY: GLENN L. ARCHER, JR.

OPINION: [*1583] ON MOTION

Before ARCHER, Chief Judge.

ORDER

The Commissioner of Patents and Trademarks moves to dismiss Gary M. Beauregard [*1584] et al.'s appeal. Beauregard responds stating that vacatur or reversal of the Board of Patent Appeals and Interferences' decision and remand to the Board is the

appropriate disposition. Beauregard requests that the remand order be issued as a precedential order.

Briefly, on August 4, 1994, the Board rejected Beauregard's computer program product claims on the basis of the printed matter doctrine. Beauregard appealed. The Commissioner now states "that computer programs embodied [**2] in a tangible medium, such as floppy diskettes, are patentable subject matter under 35 U.S.C. § 101 and must be examined under 35 U.S.C. §§ 102 and 103." The Commissioner states that he agrees with Beauregard's position on appeal that the printed matter doctrine is not applicable. Thus, the parties are in agreement that no case or controversy presently exists.

Accordingly,

IT IS ORDERED THAT:

The Board's decision is vacated and the case is remanded for further proceedings in accordance with the Commissioner's concessions.

5/12/95

Date

Glenn L. Archer, Jr.

Chief Judge

