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53 F.3d 1583
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(Cite as: 53 F.3d 1583)
35 U.S.P.Q.2d 1383
United States Court of Appeals,
Federal Circuit.

In re Gary M. BEAUREGARD, Larry K. Loucks, Khoa Dang Nguyen and Robert J. Urquhart.

No. 95-1054.

May 12, 1995.

Appeal was taken from order of the Board of Patent Appeals and Interferences rejecting computer program product claims on basis of printed matter doctrine. On Commissioner's motion to dismiss appeal, the Court of Appeals, Archer, Chief Judge, held that appeal did not present case or controversy, where parties agreed that printed matter doctrine did not apply to computer program product claims.

Vacated and remanded.

West Headnotes

Patents k324.2
291k324.2

Appeal from decision of the Board of Patent Appeals and Interferences, rejecting computer program product claims on basis of printed matter doctrine, did not present case or controversy, where parties agreed that printed matter doctrine did not apply, and Commissioner of Patents and Trademarks stated that computer programs embodied in tangible medium, such as floppy diskettes, were patentable. 35 U.S.C.A. ¤¤ 101-103.

*1583 Nancy J. Linck, Sol., Albin F. Drost, Deputy Sol. and Richard Torczon, Associate Sol., Office of the Sol., Arlington, VA, were on the Com'r of Patents and Trademarks motion to dismiss for lack of jurisdiction.

Robert Greene Sterne, Sterne, Kessler, Goldstein & Fox, Washington, DC, was on Appellants' response to the Com'rs motion to dismiss for lack of jurisdiction.

ON MOTION
ORDER

ARCHER, Chief Judge.

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 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.

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