

**SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD
November 30 - December 4, 1998**

| Date Issued | Type of Case(1) | Proceeding or Appn. No. | Party or Parties | TTAB Panel(2) | Issue | TTAB Decision | Opposer's or Petitioner's Mark and Goods or Services | Applicant's or Respondent's Mark and Goods or Services | Mark and Goods Cited by Examining Attorney | Examining Attorney | Citable as Precedent of TTAB |
|-------------|-----------------|-------------------------|------------------------------------|----------------------------|---|---|---|---|--|--------------------|------------------------------|
| 11-30 | OPP | 93,658 | Micro Motion, Inc. v. Danfoss A/S | Seeherman Quinn* Hohein | genericness | Opposition Sustained | | "MASSFLO" [flowmeters for the measurement of flow of mass of fluids] | | | Yes |
| 12-2 | OPP | 95,572 | Rubbermaid Inc. v. Dean M. Lucente | Simms Walters Bucher* | 2(d) | Opposition Sustained | "GREENS KEEPER" [large commercial containers for produce]; "KEEPERS" [household containers]; "KEEPER" [food storage containers having plastic covers] | "KEEPERS" [plastic covers for food containers] | | | No |
| 12-4 | EX | 74/546,699 | Oralabs, Inc. | Simms Walters Chapman* | whether the product configuration applicant seeks to register as its trademark is de jure functional; whether the product configuration is distinctive of applicant's goods in commerce | Refusal Affirmed (but only on the grounds of non-distinctiveness) | | configuration of the bottle in which applicant's goods are sold [breath freshening drops] | | Case | No |
| 12-4 | EX | 74/631,975 | International Data Group, Inc. | Simms Hanak* Hohein | 2(e)(1) | Refusal Affirmed | | "_____ FAQs" [books in the field of business and general reference] | | Glynn | No |

(1) EX=Ex Parte Appeal; OPP=Opposition; CANC=Cancellation; CU=Concurrent Use; (SJ)=Summary Judgment; (MD)=Motion to Dismiss; (MR)=Motion to Reopen; (R)=Request for Reconsideration

(2) *=Opinion Writer; (D)=Dissenting Panel Member

**SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD
November 30 - December 4, 1998 (continued)**

| Date Issued | Type of Case(1) | Proceeding or Appn. No. | Party or Parties | TTAB Panel(2) | Issue | TTAB Decision | Opposer's or Petitioner's Mark and Goods or Services | Applicant's or Respondent's Mark and Goods or Services | Mark and Goods Cited by Examining Attorney | Examining Attorney | Citable as Precedent of TTAB |
|-------------|-----------------|-------------------------|--|------------------------|--|--|--|--|--|--------------------|------------------------------|
| 12-4 | OPP (R) | 87,789 | Neostrata Co., Inc. and Herald Pharmacal, Inc. v. Neoteric Cosmetics, Inc. | Seeherman Hanak Quinn* | genericness; 2(e)(1); whether applicant's mark is registrable under Section 2(f) [On request for reconsideration, opposer asks that decision be marked as "citable precedent"] | Request for Reconsideration Denied [Opposition Dismissed (registration under Sec. 2(f) permitted); decision will not be marked as "citable precedent"] | | "ALPHA HYDROX" [skin lotions] | | | No |
| 12-4 | OPP | 96,518 | Recot, Inc. v. M. C. Becton | Sams Hairston Chapman* | 2(d) | Opposition Dismissed | "FRITO-LAY" et al. [potato chips, corn chips, and a variety of other food items] | "FIDO LAY" [edible dog treats] | | | Yes |

- (1) EX=Ex Parte Appeal; OPP=Opposition; CANC=Cancellation; CU=Concurrent Use; (SJ)=Summary Judgment; (MD)=Motion to Dismiss; (MR)=Motion to Reopen; (R)=Request for Reconsideration
(2) *=Opinion Writer; (D)=Dissenting Panel Member