

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD

August 16-20, 1999

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
8-16	EX EX	75/119,885 75/119,886	Ed Tucker Distributor, Inc.	Cissel* Quinn Wendel	2(d)	Refusal Affirmed (in both cases)		"MOTOR IN A BOX" [motor for a custom motorcycle sold in a kit of prepackaged parts]; "TRANNY IN A BOX" [packaged parts used to assemble a transmission for a custom motorcycle]	"BRAKE-IN-A-BOX" [brake structural and replacement parts]	Oh	No
8-17	EX	75/152,840	Moore Business Forms, Inc.	Quinn Wendel Bottorff*	2(d)	Refusal Affirmed		"MIDAS" [design and consultation services relating to the integration of equipment used to automate document production]	"MIDAS TECHNOLOGY" [computer programs for use in multiple document processing in personal computers in the legal and accounting fields of the business and industry and governmental markets, excluding the banking field in those markets]	Smiga	No
8-17	EX EX	75/201,351 75/209,841	Gregory Speirs	Cissel Quinn* Walters	2(d)	Refusal Affirmed (in both cases and as to both cited registrations)		<i>two marks incorporating:</i> the word "SKULLY" and different design elements [both marks for tee shirts, jackets, shorts, boxer shorts, sweatshirts, sweatpants, neckties, tank top shirts, socks and sneakers]	"SKULLYS" [men's hats and caps]; "SCULLY" (in stylized lettering) [coats and jackets]	Taylor	No
8-17	EX	75/122,699	Melon Acres, Inc.	Simms Wendel Bucher*	2(d)	Refusal Reversed		"MELON ACRES" [fresh fruits and vegetables]	"BLUEBERRY ACRES" (and design) [fresh blueberries]	Bullock	No

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8-17	EX	75/094,858	Liebel-Flarsheim Co.	Hohein Chapman* Bottorff	2(e)(1)	Refusal Affirmed		"ECHO CM" [powered injectors for injecting contrast media into the body of a human or animal to facilitate imaging body organs and systems by radiography, ultrasound, magnetic resonance, computer tomography, and the like; medical tubing for administration of draining fluids; catheters; syringes; etc.]		Chicoski	No
8-17	EX	75/126,814	AutoNation Inc.	Simms* Hohein Bucher	whether the matter applicant seeks to register functions as a service mark for the services recited in the application	Refusal Affirmed		"MEGA SELECTION" (and design) [automobile dealership services]		Micheli	No
8-17	EX	75/086,700	Kranco Browning, Inc.	Simms Walters* Wendel	whether applicant's specimens show service mark use of its mark in connection with its recited services	Refusal Affirmed		"ORLEY MEYER" [installation, inspection, maintenance, repair, upgrading, and modernization services in the field of cranes and hoists]		Straser	No

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8-17	EX	74/691,008	Kason Industries, Inc.	Seeherman Chapman* Wendel	de jure functionality; whether the matter applicant seeks to register has become distinctive under Section 2(f)	Refusal Affirmed (on both grounds)		configuration of the housing and roller arm of a door closer that is attached to a door [metal door closers]		C. Smith	No
8-17	EX	75/194,506	New York Fragrance, Inc.	Quinn* Wendel Bucher	2(d)	Refusal Affirmed (as to both cited registrations)		"AMERICAN EAGLE" [perfumes, colognes, shampoos, body powder, toilet water, hair conditioner, after shave lotion, and shaving cream]	"AMERICAN EAGLE OUTLET" [discount store services in the field of clothing, footwear and accessories] and "AMERICAN EAGLE OUTFITTERS" [clothing, leather and rubber boots and soles, leather care products, necklaces, earrings, wristwatches, stationery, calendars, compasses, flashlights]	McNutt	No
8-17	EX	74/268,952	Ocean Divers, Inc.	Seeherman* Walters Chapman	Section 6 disclaimer requirement (of the phrase OCEAN DIVERS)	Refusal Affirmed		"OCEAN DIVERS" (and design) [arranging excursions for tourists in the field of underwater diving; restaurant, bar, retail gift and dive shop services]		DuBois	No

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8-18	EX	75/112,344	Mortgage Bankers Association of America	Seeherman Hanak Hohein*	Section 6 disclaimer requirement (of words REAL ESTATE FINANCE PRESS)	Refusal Affirmed		"MBA—REAL ESTATE FINANCE PRESS" (and design) [printed matter, namely, educational brochures and reference manuals relating to guidelines and steps for applying for, obtaining and maintaining mortgages for prospective home buyers]		Lauterbach	No
8-18	EX	75/148,350	Jamba Juice Co.	Cissel* Seeherman Walters	2(d)	Refusal Affirmed		"ORANGE ZINGER" [fruit and vegetable juices]	"ORANGE ZINGER," "RED ZINGER," "LEMON ZINGER," "ZINGER," and "WILD BERRY ZINGER" [<i>all five marks for herb tea</i>]	Fosdick	No
8-18	EX	75/161,125	Expressions on Ice	Simms* Hanak Chapman	2(e)(2)	Refusal Affirmed		"USA FIGURE SKATING" (in stylized lettering) [pants, shirts, tops, hats, headwear, gloves, sweaters and jackets]		Micheli	No
8-18	EX	75/090,114	Sovex Foods, Inc.	Rice* Cissel Hohein	2(d)	Refusal Affirmed		"RICE MOO" [non-dairy, rice based powdered food beverage mix used as a milk alternative]	"SOY MOO" [vegetable based milk substitute made from soy beans]	Richard	No
8-18	OPP	106,850	Dianne R. Jimenez v. Richard Fowler	Simms Quinn* Chapman	2(d)	Opposition Dismissed (for failure of proof)	"BUTTERFLY RECORDS" [musical recordings]	"BUTTERFLY RECORDS" [music recordings; live performance by a musical group]			No

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8-18	EX	75/042,526	Harry D. Koenig & Co., Inc.	Cissel* Hanak Chapman	2(d); 2(e)(4); whether applicant must amend its identification of goods (i.e., whether "perfume applicators" is an indefinite identification of goods)	Refusal Affirmed (but only on the 2(d) and 2(e)(4) grounds)		"KINGSLEY" (in stylized lettering) [skin soaps, perfumes, and pumice stones; manicure and pedicure utensils, namely, scissors, cuticle nippers and tweezers; bath brushes, toothbrushes, hair brushes, shaving brushes, scrubbing pads, mitts, sisal brushes and towels, loofah brushes, pads and gloves, and sponges; dispensers, holders, and dishes for soap; perfume applicators sold empty]	"PHILIP KINGSLEY TRICHOLOGICAL CENTRE" [salon specializing in the treatment of scalp and hair conditions]; "PHILIP KINGSLEY" (in stylized lettering) [hair and scalp care preparations, namely, hair cream, anti-dandruff cream, hair conditioner, hair spray, hair lotion, and scalp treatment]	Fromm	No
8-18	EX	75/079,940	San Antonio Shoe, Inc.	Hanak (D) Chapman Wendel*	2(d)	Refusal Affirmed		"TUFF TEXAS" [shoes]	"TEXAS TUFF" (in stylized lettering) [jeans, jogging suits, shorts, t-shirts, sweatshirts, and jackets]	King	No
8-19	EX	74/649,495	George H. Scherr	Simms Hanak* Bucher	2(d)	Refusal Affirmed		"IG NOBEL PRIZES" [promoting of science, the useful arts and humor through the sponsorship of an awards program, etc.]	"NOBEL PRIZE" [promoting science, research and peace by the award of prizes and diplomas]	Lykos	No
8-19	EX	74/150,881	Ther-A-Pedic Associates, Inc.	Cissel* Seeherman Walters	2(d)	Refusal Affirmed		"POSTURE-MEDIC" [mattresses and box springs]	"POSTUREMATIC" [mattresses and box springs]	Cataldo	No

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8-19	EX	75/133,584	International Data Group, Inc.	Cissel* Quinn Bottorff	2(e)(1)	Refusal Affirmed		"COMPUTERNET" [magazines, magazine supplements, catalogues, manuals, brochures, pamphlets, guides, newsletters, journals, and books in the field of high technology and information technology; providing on-line magazines, magazine supplements, etc. in the field of high technology and information technology]		Blandu	No
8-20	EX	75/150,659	228 West Broadway, Inc.	Simms* Cissel Hairston	2(d)	Refusal Affirmed		"BUBBLE LOUNGE" [bar services]	"THE BUBBLE ROOM" (and design) [restaurant services]	Fickes	No
8-20	OPP	105,477	Chemalloy Co., Inc. v. Aluminium Rheinfelden GmbH	Hanak* Hohein Wendel	2(d)	Opposition Sustained	"TI-LOY" [scrap metal composed primarily of titanium for use in the manufacture of steel and ferro alloys]	"TIBLOY" [chemical compounds for use in metal refining processes; unwrought and/or partially wrought common metals and their alloys in rod, sheet, wire and/or billet form for use in further metal refinement and manufacturing processes]			No
8-20	OPP	102,797	Horphag Research Ltd. v. FreeLife Int'l, LLC.	Seeherman Quinn Bucher*	2(d)	Opposition Dismissed	"PYCNOGENOL" [dietary and nutritional supplements]	"SOYGENOL" [nutritional supplements, ingredients sold as a component part of nutritional supplements, vitamins and minerals]			No

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8-20	EX	75/114,705	Industrias AS, S.A. de C.V.	Simms Hanak Hairston*	2(d)	Refusal Affirmed		"LOGIC" [window coverings, namely, horizontal blinds and parts therefor, modular cabinets and shelves and parts therefor]	"LOGIC SEATING" [furniture, namely, chairs for residential, commercial, and industrial use]	Santo-martino	No
8-20	EX	74/582,574	Southwest Student Services Corp.	Hohein* Hairston Wendel	2(e)(1) [genericness]	Refusal Affirmed		"COLLEGE CARD" [financial services, namely, providing to students enrolled at participating institutions of post-secondary education a low-cost line of credit accessed by a transaction card for payment of education-related expenses to the institution and to participating merchants affiliated with the institution]		Lykos	No

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