

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD
May 8-12, 2000

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
5-8	OPP (SJ)	103,997	Converse, Inc. v. Worldwide Kids Associates, Ltd.	Quinn Rogers McLeod [Opinion "By the Board"]	2(d)	Opposition Dismissed [applicant's motion for summary judgment granted]	a series of marks incorporating a five-pointed star design [shoes, clothing, sporting goods, bags, and related articles]	"TEXAS KIDS" (and design incorporating a five-pointed star) [footwear, headwear, pants, shorts, shirts, blouses, skirts, jackets, overalls, warm-up suits, sweatshirts, socks, hats, leotards, and dresses]			No
5-9	OPP OPP (SJ)	86,313	GSG Enterprises Inc. v. Learning Tree Int'l, Inc.	Quinn Holtzman Rogers [Opinion "By the Board"]	2(d); standing; effect of a consent decree in a prior civil action; <i>Morehouse</i> defense (applicant's ownership of prior registrations)	Opposition Dismissed (in both cases) [applicant's motion for summary judgment granted (but not as to applicant's claim that opposer lacked "standing" nor on the basis of the <i>Morehouse</i> defense)]	"LEARNING TREE UNIVERSITY" [educational services]	"LEARNING TREE INTERNATIONAL" and "LEARNING TREE INTERNATIONAL" (and design) [educational services, namely, conducting courses in engineering, science, business, management, communications, computers, electronics, and manufacturing; books relating to same; computer hardware, namely, microcomputers, keyboards, video displays, and power supply units; computer programs and pre-recorded audio and video tapes, cassettes, and disks for educational purposes]			No

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

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5-9	EX	75/294,643	Orbital Sciences Corp.	Cissel* Hanak Rogers	2(d)	Refusal Reversed		"SMARTTRACK" [vehicle tracking and information systems, namely, computer software for tracking vehicles and processing GPS position information regarding the location and status of such vehicles; monitors for displaying vehicle location information; and communications equipment, namely, transmitters and receivers for relaying vehicle location information between dispatchers and vehicle operators]	"SMART TRAX" [truck transport services; computerized satellite tracing of vehicles and shipments of goods shipped by truck or air]	Zak	No
5-9	EX (R)	75/089,625	Cuba GmbH Int'l. Marketing Concept	Seeherman* Walters Bottorff	2(e)(1)	Request for Reconsideration Denied (Refusal Affirmed)		"SHAPE CD" [house mark for CD-ROMs with interactive multimedia programs or interactive media software; booklets, pamphlets, and manuals for explaining or describing the CD-ROMs above]		Goodman	No
5-9	OPP OPP OPP	94,922 94,937 94,946	Rexnord Corp. v. Valu Engineering, Inc.	Cissel Quinn Bottorff*	de jure functionality; fraud	Opposition Sustained (in all three cases, on de jure functionality ground only)		the cross-sectional shape of conveyor guide rails (viz., "round," "flat," and "tee" configurations) [conveyor guide rails]			No

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5-10	OPP (SJ)	110,125	BellSouth Corp. v. True Interactive Yellow Page Directories, Inc.	Simms Seeherman Quinn*	2(d); defense of genericness/res judicata	Applicant's motion for summary judgment granted [Opposition to be dismissed upon applicant's submission of disclaimer of "walking fingers" design]	two design marks incorporating "walking fingers" graphic [classified telephone directories]	"YELLOW PAGES" (and design incorporating a "walking fingers" graphic) [advertising services, namely, placing business information of others on a global computer network]			No
5-10	OPP	92,993	Starlight Nails & Beauty Supply, Inc. v. Inter-Continental Nail Products	Seeherman* Quinn Holtzman	2(d)	Opposition Dismissed (for failure to submit evidence)	"INP" [nail groom products]	"INP" [nail grooming products]			No
5-11	OPP	100,996	Orlando Food Corp. v. Orlando Baking Co.	Simms Chapman* McLeod	2(d)	Opposition Sustained	"ORLANDO" [artichoke hearts, canned fish, cheese, processed olives, canned vegetables, tomato paste, tomato sauce]	"ORLANDO" (and design incorporating additional wording) [breads, biscuits, cakes, pizza, cookies, doughnuts, pastry and confectionery chips for baking]			No

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5-11	EX	75/091,596	Boston Scientific Technology, Inc.	Hairston* Chapman Holtzman	2(d)	Refusal Affirmed		"VECTOR TTS" [endoscopic balloon dilation catheters]	"VECTOR" [medical devices, namely, infusion pumps and drug reservoirs and accessories therefor, namely, tubing, catheters, and intravenous pole clamps]	Ward	No
5-12	OPP (SJ)	106,462	Anheuser-Busch, Inc. v. Coyote Springs Brewing Co.	Sams Simms Bottorff [Opinion "By the Board"]	2(d)	Opposition Dismissed [applicant's motion for summary judgment granted]	"NORDIK WOLF" (in stylized lettering), "NORDIK WOLF" (and design), "RED WOLF" (and design), design mark incorporating three wolves [<i>all four marks for beer</i>]	"COYOTE SPRINGS BREWING COMPANY" (and design) [restaurant services including a brew pub]			No
5-12	EX EX	75/471,852 75/471,853	Manheimer, Inc.	Simms Cissel Seeherman*	2(d)	Refusal Affirmed (in both cases)		"GYPSY" and "GYPSY NIGHTS" [<i>both marks for perfume and cologne</i>]	"GYPSY BALM" [essential oils in a wax base to be applied to the body]	Linnehan	No
5-12	EX	75/195,261	John Sermos	Hairston* Wendel Bottorff	whether the matter applicant seeks to register functions as mark for its goods; 2(e)(1)	Refusal Affirmed (on both grounds)		design consisting of a representation of applicant's goods [electrical snap connectors for radio controlled devices]		Stine	No

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5-12	EX EX EX EX	74/697,240 75/091,780 75/091,962 75/096,409	Tichenor Media Systems, Inc.	Seeherman* Quinn Bottorff	<i>as to all four applications:</i> whether applicant's specimens show use of its mark for the services recited in the application; <i>as to 75/091,780 and 75/091,962 and 75/096,409:</i> whether applicant's proposed amendment to its identification of services is acceptable	Refusal Affirmed (in all four cases and on all grounds asserted)		74/697,240: "GO-KART CARLOS" [radio broadcasting services]; 75/091,780: "TEJANO MONEY SONG OF THE DAY" [radio broadcasting services; <i>proposed identification of services:</i> entertainment services in the nature of on-going radio contest events]; 75/091,962: "EL PULSO DE SAN ANTONIO" [radio broadcasting services; <i>proposed identification of services:</i> entertainment services in the nature of on-going radio programs in the field of variety]; 75/096,409: "TEJANO MUSIC MARATHON" [radio broadcasting services; <i>proposed identification of services:</i> entertainment services in the nature of on-going radio programs]		Wellington	No

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5-12	EX	75/081,396	Orbital Sciences Corp.	Cissel* Hanak Rogers	2(d)	Refusal Reversed		"SMARTTRACK JR." [vehicle tracking and information systems, namely, computer software for tracking vehicles and processing GPS position information regarding the location and status of such vehicles; monitors for displaying vehicle location information; and communications equipment, namely, transmitters and receivers for relaying vehicle location information between dispatchers and vehicle operators]	"SMART TRAX THE INTELLIGENT WAY TO TRACK YOUR FREIGHT ANYWHERE" (and design) [computerized tracing of vehicles and their shipments]	Zak	No

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