

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

April 29 – May 3, 2002

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
4-30	EX (R)	75/580,063	Joe Driskill, Jr.	Wendel Bottorff* Drost	2(d); whether the configuration of applicant's goods has acquired distinctiveness as a trademark	Request for Reconsideration Denied [Refusal Affirmed (on both grounds)]		the configuration of the body of applicant's guitars [musical instruments, namely, guitars]	the configuration of the body of registrant's guitars [musical instruments, namely, guitars and basses, and parts therefor]	Breckenfeld	No
4-30	EX	75/615,925	TSI Brands, Inc.	Simms Hohein* Bucher	2(d)	Refusal Reversed		"AK AMERICAN KHAKIS" [sportswear, namely, men's and women's pants, jeans, shorts and shirts]	<i>3 cited registrations, all owned by the same entity:</i> 2 registrations of "AK" (in a design format) [both registrations recited as goods: "athletic clothing, namely, sweaters, jerseys, shirts and tops, undershirts, pants, hosiery, jackets, ski jackets, ski pants, and ski suits," one registration based on Section 44, the other based on use in commerce]; a third registration of "AK" in a design format different from that shown in the other two registrations, but for the same goods as recited in the other two registrations)	Dawe	Yes

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4-30	OPP	116,736	Hasbro, Inc. v. Mattel, Inc.	Seeherman* Quinn Bottorff	2(d)	Opposition Sustained	"CLUE" and other marks incorporating the word "CLUE" [board games, jigsaw puzzles and related games and collateral products]	"HIDDEN CLUES" [board games and jigsaw puzzles]			No
4-30	OPP (SJ)	115,805	G. D. Searle & Co. v. Victorio Rodriguez	Cissel Quinn Bucher [Opinion "By the Board" (Zervas)]	2(e)(1)	Opposition Sustained (Opposer's cross-motion for summary judgment granted)		"CEREBRIL" [pharmaceutical preparations for the treatment of brain edema]			No
4-30	EX EX EX EX EX EX	75/646,864 75/519,553 75/523,613 75/538,701 75/566,226 75/568,149 75/575,759	Gregory Speirs	Cissel* Walters Bottorff	2(a) [false suggestion of a connection]	Refusal Reversed in all seven cases		"LITHUANIA" (and design) [various items of clothing in Class 25]; "LITHUANIAN SLAM DUNKING SKELETON" [various items of clothing in Class 25]; "SLAMMIN' SKELETON" (and design) [2 applications, one for various clothing items in Class 25 and the other for a wide variety of toys, games, figurines, and other items in Class 28]; "LITHUANIA" (and design) [a wide variety of cards, books, stationery, and other items in Class 16]; "LITHUANIA" (and design) [various items of clothing in Class 25]; "LITHUANIA 2000" (and design) [various items of clothing in Class 25]		Capshaw	No

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4-30	EX	75/634,821	Discus Dental Impressions, Inc.	Simms Hanak* Bucher	2(e)(1)	Refusal Affirmed		"MATRIX" [dental restoration materials comprising shaded composite materials and preparation etching materials]		I. A. Clarke	No
4-30	EX	75/646,333	The Whole Child Learning Company, Inc.	Cissel* Seeherman Quinn	2(e)(1)	Refusal Affirmed		"THE WHOLE CHILD LEARNING COMPANY" [early educational services, namely, providing instruction in the fields of kinesthetics, athletics, arts, civics, mathematics, logic, critical thinking, problem solving, spatial relations, time concepts, measurements, linguistics, music, cooperation, social and interpersonal skills and activities, motivation, phonics, reading, pre-reading readiness, shape and color recognition, sequencing, computer skills, and use and care of computer equipment]		Neville	No
4-30	EX	75/794,637	Ciena Corp.	Simms Cissel* Bottorff	2(d)	Refusal Affirmed		"FASTPATH" [repair and replacement of proprietary telecommunication equipment modules]	"FASTPATH" [integrated circuits, printed circuit boards, and telephony devices, namely, modems, cable modems, and integrated services digital network interfaces]	Gaynor	No

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4-30	EX	75/773,323	LAS Laser Analytical Systems GmbH	Wendel Bucher* Holtzman	whether the matter applicant seeks to register functions as a trademark for the goods recited in its application	Refusal Affirmed		“DELTA CONCEPT” [lasers of various types, spectroscopic instruments, laser based systems comprising lasers for chemical, industrial machining, scientific, environmental, and analytic systems applications, optical sensors for use in gas and particle analysis and environmental monitoring, <i>and other goods</i> ]		Masterson	No
4-30	EX	74/650,282	IDG Books Worldwide, Inc.	Hanak* Hairston Walters	whether the drawing of the mark is a substantially exact representation of the mark shown in the specimens of use--i.e., whether the specimens demonstrate trademark use of the mark sought to be registered on the Supp. Reg. [mutilation]	Refusal Reversed		“WEBMEDIA” [books in the field of computers, communications and information technology]		Webster	No

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4-30	EX	78/007,276	Hitachi Software Engineering Co., Ltd.	Quinn* Hairston Drost	2(e)(1)	Refusal under 2(e)(1) Affirmed, but applicant's alternative amendment to the Supp. Reg. accepted		"SHAREWIZARD" [computer application software used by business for telephone conference and network conference connections]		Tanner	No
4-30	EX	75/110,434	CompUSA Management Co.	Cissel* Wendel Bucher	2(e)(1) [genericness]	Refusal Affirmed		"THE COMPUTER SUPERSTORE" [retail store services in the field of computers, computer products, and computer accessories]		Ferraiuolo	No
4-30	EX	75/510,711	Rogue Valley Transportation District	Cissel* Hairston Drost	2(e)(1)	Record does not establish basis for refusal under 2(e)(1) but applicant required to disclaim the word BUS		"INTERACTIVE BUS" [advertising services, namely, advertising the goods and services of others in various media on public and private transportation vehicles; promotional services, namely, promoting the use and awareness of public transportation through the creation and display of various media on public and private transportation vehicles]		L. Thompson	No

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5-2	EX EX	75/479,362 75/751,177	Les Halles De Paris J. V.	Simms* Cissel Hanak	2(e)(3) as to both applications	Refusal Reversed as to hotel services; Refusal Affirmed as to restaurant services		"LE MARAIS" (in stylized lettering) [hotel and lodging services]; "LE MARAIS" [restaurant services]		Oh	No
5-2	EX	75/344,387	Lumi-Lite Candle Co., Inc.	Hanak Wendel* Drost	2(e)(1) [genericness]; whether applicant's mark, if not generic, is distinctive under Sec. 2(f)	Refusal Affirmed (on both grounds)		"CAKE CANDLE" [frosted pillar candles]		Jenkins	No
5-3	EX	75/543,708	Goldshield Group, plc	Walters Chapman Drost*	2(d)	Refusal Reversed		"CENTURAL" [vitamin and mineral supplements and protein preparations and substances for use as dietary supplements]	"CENTER-AL" [allergenic extract used for injection and hyposensitization therapy in the field of allergy]	Collins	No
5-3	EX	75/862,136	David Amini	Cissel* Seeherman Holtzman	genericness [whether applicant's mark is registrable on the Supp. Reg.]	Refusal Affirmed		"GIOIA" [an ornamental article of precious metal worn on the person which attaches to the front of a garment using a safety pin or connector]		Turner	No

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