



MEMORANDUM

DATE : August 18, 2003

TO : Addressees

FROM : J. David Sams
Chief Administrative Trademark Judge
Trademark Trial and Appeal Board

**SUBJECT: Weekly Report of Final Decisions--
August 11-15, 2003**

Attached is a summary of the final decisions issued by the Board last week.

Addressees:

TTAB Judges and Attorneys	S. Marsh
J. Toupin	C. Morris
A. Chasser	M. Hannon
R. Anderson	TMEO Managing Attorneys
L. Beresford	J. Brown
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R. Williams	
J. Marshall	

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD
August 11-15, 2003

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
8-12	EX	75/439,331	The Valspar Corp.	Simms Hairston Rogers*	2(e)(1)	Refusal Affirmed		"GREAT COAT" [interior and exterior paints, and interior and exterior stains]		Charlon	No
8-12	OPP	122,225	Millipore Corp. v. APS Water Services Inc.	Seeherman Hohein Chapman*	2(d); whether opposer's asserted mark (or trade name) is a merely descriptive term without acquired distinctiveness	Opposition Dismissed but application remanded under Rule 2.131 for examination of potential refusal of registration under 2(e)(1)	"LAB WATER" or "LAB WATER DIVISION" [laboratory water purification units and filters and related services (<i>use of the term LAB WATER as a trademark and service mark and use of LAB WATER DIVISION as a trade name</i>)]	"LABWATER.COM" [laboratory water purification units and filters]			No
8-12	EX	76/276,631	Eric Hart	Seeherman Walters Drost*	2(d)	Refusal Affirmed		"SPEED" [men's, women's and children's shirts, pants, jumpsuits, blouses, skirts, shorts, vests, jackets, dresses, tops, denim skirts, denim jackets, knit tops, knit bottoms, socks, t-shirts, underwear, and shoes]	"SPEED GEAR" [clothing, namely, shirts, t-shirts, sweat shirts, rugby shirts, polo shirts, tank tops, vests, shorts, caps, hats, head bands, visors, protective head wear, neck wear, footwear, socks, gloves, scarves, pants, jackets, coats, sweaters, bib pants, overalls, one piece suits, rain suits, and boots]	Matthews	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
August 11-15, 2003 (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
8-12	EX	75/716,333	International Market Brands, Inc.	Seeherman Bucher Rogers*	2(d)	Refusal Reversed		"COUNTRY KETTLE" [frozen soups, canned soups, and frozen entrees consisting primarily of meat, chicken, fish or vegetables sold to institutional buyers and frozen entrees consisting primarily of pasta or rice sold to institutional buyers]	"THE COUNTRY KETTLE" [restaurant services]	L. King	No
8-13	EX	76/204,725	Paramount Pool Services, Inc.	Hairston Walters* Rogers	genericness (whether applicant's mark is registrable on the Supplemental Register)	Refusal Affirmed		"POOLANDSPA.COM" [mail order and online ordering of swimming pools, spas, hot tubs, parts, chemicals, equipment, supplies and accessories and print publications related thereto]		Micheli	No
8-14	OPP	116,679	NSI Enterprises, Inc. v. Barnett, Inc.	Quinn Chapman Bucher*	2(d)	Opposition Sustained as to both classes of goods	"LUMINA" [electric lighting fixtures]	"LUMINA" (and design) [in Class 9: electrical hardware, namely, switches, boxes, cords, circuit breakers, outlets, ground faults interrupters, smoke alarms, fuses, cover plates for outlets and wall switches, adaptors, electrical testers; in Class 11: flashlights, electrical lighting fixtures and electric light bulbs]			No

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SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD
August 11-15, 2003 (continued)

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8-14	EX	75/516,045	The Language Workshop for Children/ Cercle Franco Americain, Inc.	Hohein* Chapman Rogers	whether the matter applicant seeks to register is used as a service mark for applicant's recited services; 2(e)(1); whether applicant's mark has acquired distinctive-ness under Section 2(f)	Refusal Affirmed but only under 2(e)(1) and for failure of proof of distinctive-ness under Section 2(f)		"FOR TOTS" [educational services, namely, providing classes in foreign languages to children and distributing course material in connection therewith]		Hickey	No
8-15	OPP	124,856	Unimed Pharmaceuticals, Inc. v. StarCor Pharmaceuticals, Inc.	Cissel Hohein* Hairston	2(d)	Opposition Sustained	"ANADROL" [steroid hormones]; "ANDROGEL" and "ANDRACTIM" [both marks for a pharmaceutical preparation for the treatment of testosterone deficiency and/or HIV wasting syndrome]	"ANDROL XL" [non-prescription nutritional supplement, namely, extended release formulation of androstenedione]			No

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