

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD
October 18-22, 2004

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
10-19	OPP (SJ)	91125436	Grupo Industrial Tlajomulco S.A. de C.V. and Bacardi Co. Ltd. v. Tequila Centinela, S.A. de C.V.	Simms Hairston Bucher [Opinion "By the Board" (Goodman)]	fraud; whether opposer Bacardi had standing to oppose [<i>Note: Issue of fraud had already been resolved in opposer's favor in decision issued 2/2/04</i>]	Opposition Sustained (Opposers' motion for summary judgment granted)		"CABRITO" (and design) [alcoholic beverages, excluding beer, namely, distilled liquor, wine, wine coolers, prepared alcoholic cocktails and aperitifs, and alcoholic drinks, namely, liqueurs, hard cider, brandy spirits, distilled liquors, distilled spirits, gin, wine, whiskey, vodka, rum, tequila, anisette aguamiel, aguardiente]			No
10-19	EX	76388939	Nixon	Quinn Bucher Rogers*	2(d)	Refusal Affirmed		"PASSPORT TRAVEL SPA" [operating beauty salons and rendering spa services]	"PASSPORT" (and design) [therapeutic massage services]	Carlyle	No
10-19	EX	76048329	Warehouse Fashion Ltd.	Hanak Bucher* Bottorff	2(e)(1) [genericness]; whether, if not generic, applicant's mark has acquired distinctive-ness under Section 2(f)	Refusal Affirmed on both grounds		"WAREHOUSE" [retail store services and mail order catalog services in the field of clothing, footwear and headgear, bags, rucksacks, backpacks, jewelry, imitation jewelry, perfumes, cosmetics and toilet articles and chronometric and horological instruments via the Internet]		Mizelle	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
October 18-22, 2004 (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
10-22	OPP	91124380	Medtronic Physio-Control Corp. v. Osypka Medical, Inc.	Hohein Chapman Bottorff*	2(d)	Opposition Sustained	“PHYSIO-CONTROL” [ECG recorders, patient monitoring oscilloscope systems, heart monitoring and defibrillation systems; combination heart monitor, heart signal recorder and defibrillator units; accessories for combination heart monitor and defibrillator units; electronic operating room and bedside monitors for use in monitoring ECG signal, heart rate, pulse, blood pressure, blood oxygen saturation, temperature or carbon dioxide of a patient; automatic and semiautomatic defibrillators; <i>and other goods</i>]; “PHYSIO CONTROL” [ECG recorders; patient monitoring oscilloscope systems; heart monitoring and defibrillation systems]; “PHYSIO” [ECG patient cables and replacement patient lead wires]	“PHYSIOCOM” [medical instruments, namely, heart measuring, monitoring, diagnostic and data communication equipment, including parts thereof, operating software and operating firmware]			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
October 18-22, 2004 (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
10-22	EX	75722993	EOS GmbH Electro Optical Systems	Chapman Bucher Holtzman*	2(e)(1)	Refusal Affirmed in all four classes		"E-MANUFACTURING" [in Class 7: machines in the nature of rapid prototyping apparatus for making parts, prototypes, models, molds, tooling and other kinds of 3-dimensional objects from various materials for industrial machine parts, automotive parts, aviation, space technology, consumer goods, electrical and electronic components, etc.; in Class 9: lasers, deflection mirrors, beam expanders, scanners, plane field lenses and shutters for use in laser sintering apparatus; laser sintering apparatus; etc; in Class 41: providing an engineer to do training concerning the properties and operation of laser sintering apparatus; in Class 42: engineering and consulting services relating to manufacture of prototypes, models, and parts by rapid prototyping processes; programming for rapid prototyping apparatus and systems]		Martin	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
October 18-22, 2004 (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
10-22	EX	76437166	Intex Recreation Corp.	Hanak* Walters Bucher	whether applicant's specimens show trademark use of its mark on its recited goods	Refusal Reversed in both classes		"THE WET SET" [<i>in Class 7</i> : power tools used to clean swimming pools, namely, machines for cleaning surfaces using water pressure; <i>in Class 8</i> : hand tools used to clean swimming pools, namely, pool leaf skimmers]		Oh	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