

**SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD**  
**September 20-24, 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
9-20	EX	76222945	Ekstrom Industries, Inc.	Simms Rogers Drost*	whether applicant's specimens show use of the mark it seeks to register [mutilation]	Refusal Reversed		"OPTI-LOCK" [lockable metal cover for an optical communication port on an electric watt-hour meter]		L. Thompson	No
9-20	CANC	92031904	Bell, Inc. v. Bell Packaging Corp.	Seeherman Bottorff* Drost	2(d) [priority]	Petition to Cancel Denied	<i>trade name use of</i> "BELL, INC" [paperboard packing products business]	"BELL PACKAGING CORPORATION" [packing paper, cardboard, and packaging goods, namely, linerboards, corrugating medium paper, corrugated boxes, adhesives for stationery, waxed paper, wax paper bags; consultation services and design of pallets, storage rack systems, linerboard, corrugating medium, corrugated boxes, and waxed paper products]			No
9-20	EX	75778485	United Farmers Elevator Cooperative	Simms Bottorff Drost*	2(d)	Refusal Affirmed as to both cited registrations		"UNITED SEED" [bird seed]	<i>2 cited registrations, both owned by the same entity:</i> "UNITED FEEDS" and "U UNITED FEEDS" (and design) [both marks for livestock feeds, livestock feed base mixes, and livestock feed premixes]	Baldwin	No

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9-20	OPP	91151180	Amadeus Marketing, S.A. v. Amadeus Salon, Inc.	Quinn Hohein* Bottorff	2(d)	Opposition Dismissed	"AMADEUS" (and design) [providing and leasing access to a worldwide computerized system and data bank in the field of reservations for lodging, hotels, and transportation and providing leasing such access for use by travel agents in connection with travel services for transportation reservations and ticketing, car rentals and tourist packages, organizing trips and excursions and travelers' guide services and sight seeing tourism services]	"AMADEUS" [health spa services, namely, skin care, body care, and hair care treatments]			No
9-20	EX	76475899	Nantucket Harvest Co., Inc.	Seeherman Rogers* Drost	2(d)	Refusal Affirmed		"NANTUCKET OFF-SHORE" [spices, seasonings, sauces, seasoning rubs, and seasoning sauces for barbecued foods and for use on cooked food products]	"OFF SHORE" [seafood]	Capshaw	No
9-20	EX	76353037	Cumulus Broadcasting, Inc.	Seeherman Chapman* Holtzman	2(d)	Refusal Reversed		"106.5 THE ZONE" [radio broadcasting services]	"94.1 FM THE ZONE" [radio broadcast services]	J. Dalier	No
9-21	EX	76373265	CFS Holdings, Inc.	Seeherman* Hanak Bucher	2(d)	Refusal Affirmed in both classes		"GARDEN HARVEST" [Class 29: freeze dried vegetables; Class 30: freeze dried herbs]	"GARDEN HARVEST" [fresh fruit, namely, tomatoes]	Joyner	No

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9-21	CANC	92024998	M.C.I. Foods, Inc. v. Los Cabos Food Corp. and Richard Staunton	Seeherman* Hohein Rogers	2(d)	Petition to Cancel Denied	"LOS CABOS" (and design) [burritos, enchiladas, tacos, taquitos, and soft tacos]	"LOS CABOS" (and design) [restaurant services]			No
9-22	EX	75589448	Richard Ferris	Walters* Chapman Bottorff	whether applicant's specimens show service mark use of its mark in connection with its recited services	Refusal Reversed		"TEE-MAIL" [wholesale and retail distributorship featuring golf equipment, golf and sports clothes, golf books, audio cassettes, video cassettes, CDs and CD-ROMs that may be accessed by way of a global computer network]		Oslick	No
9-22	EX	76481665	Indian Industries, Inc.	Quinn Hairston Bucher*	2(e)(4)	Refusal Reversed		"MOSCONP" [billiards, namely, billiard tables, billiard cues, billiard balls, billiard chalk, eight and nine ball racks, cue racks, cue cases and billiards game playing equipment]		Fromm	No
9-22	EX	76434394	Earthstone Int'l. LLC	Quinn Hairston Rogers*	2(d)	Refusal Affirmed but only on the basis of the cited registration for "PURE CLEAN"		"PURE CLEAN" [abrasive preparation for use for cleaning, removing stains, polishing and smoothing surfaces, in institutional and residential use]	<i>2 cited registrations:</i> "PURE CLEAN" [hand cleansers, hair shampoos, and skin lotions for use in industrial and institutional facilities] <i>and</i> "PURE 'N CLEAN" [cloths for wiping, cleaning, and dusting]	Mandir	No

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9-22	OPP CANC	91120905 92031180	American Sporting Goods Corp. v. Glory Shoes Co., Inc.	Seeherman Hohein* Hairston	2(d)	Opposition Sustained and Petition to Cancel Granted	"AVIA" [athletic shoes; all purpose sport bags, duffel bags, tote bags, waist packs, shoulder bags and book bags; and other goods] and "AVIA" (and design) [athletic shoes, t-shirts, sweatsuits, shorts, and polo shirts]	<i>in the opposition:</i> "AVA II" (and design) [shoe bags for travel, travel bags, all purpose athletic bags, gym bags, leather shopping bags, textile shopping bags, shoulder bags, and school bags] <i>in the cancellation:</i> "AVA" [footwear]			No
9-22	EX	76447366	Tee and Ell Weightlifting and Exercise Enterprises, Inc.	Simms Bucher Bottorff*	whether the mark on applicant's drawing is a substantially exact representation of the mark shown on its specimens of use; whether applicant's specimens show service mark use of its mark in connection with its recited services]	Refusal Affirmed as to Class 41 services on ground that specimens fail to show service mark use; Refusal Reversed as to both classes as to refusal that drawing is not a substantially exact representation of the mark in use		"WESTSIDE BARBELL" [in Class 9: prerecorded video tapes featuring instruction and training in the field of weightlifting; in Class 41: educational services, namely, training services in the field of strength and conditioning training]		Cross	No

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9-22	EX	76411174	Gibson Piano Ventures, Inc.	Hairston Walters Bottorff*	2(e)(4)	Refusal Affirmed		"FRANKE" [pianos]		Le	No
9-22	EX	75824687	Lufthansa Technik AG	Seeherman* Chapman Bucher	2(e)(1)	Refusal Reversed in all classes		"TIS" [ <i>in Class 35: organizational consultation in the nature of business management consultation for others in the field of aviation, including the purchase and sale of aircraft, etc.; in Class 37: aircraft repair and maintenance for others, etc.; in Class 41: training of flight and ground personnel employed by others in the use of equipment on aircraft, etc.; in Class 42: interior engineering design for aircraft for others; inspection of aircraft for others; and a variety of other services</i> ]		Pino	No
9-23	EX	75781056	Orphan Medical, Inc.	Seeherman Quinn* Bottorff	2(e)(1); whether applicant's mark has acquired distinctiveness under Section 2(f)	Refusal Affirmed on both grounds		"ORPHAN MEDICAL" [housemark for pharmaceutical preparations for prevention, treatment, and aiding in the treatment of human and animal conditions, illnesses and diseases]		Brown	No

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9-23	EX	78012153	Borysiewicz	Quinn Hohein* Drost	2(d)	Refusal Reversed		"CIELO" [cigars]	"HEAVEN" [cigars]	Perkins	No
9-23	EX	76402644	RelaxStation Ltd.	Seeherman Hohein Rogers*	2(d)	Refusal Affirmed		"RELAX STATION" (and design) [massage therapy to ease sore and aching bodily joints, muscles, and feet, through natural non-medical relaxation procedures]	"RELAXATION STATION" [body, head and neck massage services]	Souders	No
9-24	OPP	91153146	Saravana Bhavan USA, Inc. v. Madras Sarvana Bhavan, Inc.	Hanak* Hairston Chapman	2(d); 2(a) [false suggestion of a connection]; dilution	Opposition Dismissed	"SARAVANA BHAVAN" [restaurant services]	"MADRAS SARAVANA BHAVAN" [restaurant services]			No
9-24	CANC	92032828	Tribal Sportswear, Inc. v. Jayson R. Abram	Quinn Bucher Bottorff*	2(d)	Petition to Cancel Granted	"TRIBAL" [ladies' wear, casual wear, and sportswear, including suits, slacks, pants, skirts, tops, and shorts]	"TRIBAL IMPRESSIONS" (and design) [apparel for men and women, namely, tee shirts, shirts, pants, dresses, skirts, jackets, suits, athletic tops and bottoms and accessories, namely, scarves, hats, and hand-batiked scarves]			No
9-24	OPP	91151984	Willie B. Pinkney v. Treadwell's Drifters, Inc.	Simms* Seeherman Quinn	2(d)	Opposition Sustained	"THE ORIGINAL DRIFTERS" and "BILL PINKNEY & THE ORIGINAL DRIFTERS" [both marks for entertainment services in the nature of live performances by a musical group]	"THE DRIFTERS" [entertainment services in the nature of a singing group]			No

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9-24	EX	75527923	Donnell, Inc.	Walters Chapman Holtzman*	2(e)(1)	Refusal Reversed		"BOO BOO CREAM" [a topical wound healing agent in the form of a cream for skin wounds, insect bites and other skin irritations]		Brown	No
9-24	EX EX	76401721 76408554	Rovanco Piping Systems, Inc.	Quinn Walters* Drost	2(d) as to both applications; as to Ser. No. 76401721 only: whether applicant's specimens show use of its mark on its recited goods	Refusal Affirmed in both cases under 2(d) on the basis of all three cited registrations and as to Ser. No. 76401721 on the additional basis asserted		"RHINOCOAT" [corrosion inhibitors in the nature of a coating for insulated pipe]  "RHINOFLEX" [flexible insulated pipe, not of metal]	<i>3 cited registrations, all owned by the same entity:</i> "RHINOTUBE NORTH AMERICAN STEEL WORKS" (and design) [metal pipes, posts and tubing]; "RHINOSHIELD" (and design) [protective coatings in the nature of rust inhibitors for use on metal pipes, posts, and tubing]; "RHINOTUBE" [metal pipes, metal posts, metal tubing; metal pipes and protective coatings sold as a unit; metal posts and protective coatings sold as a unit; metal tubing and protective coatings sold as a unit]	Ririe	No

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9-24	EX	76397850	Sound International, Inc.	Simms* Rogers Drost	2(d)	Refusal Affirmed as to goods in Classes 11 and 21 <i>(Note: Refusal did not pertain to goods in Class 8)</i>		"HOME BASIX" [ <i>in Class 11</i> : environmental control apparatus, namely, faucets, Roman tub faucets, bidets, shower controls, show body sprays, hand showers, and shower heads; <i>in Class 21</i> : bath accessories, namely, towel bars, towel rings, non-metal robe hooks, toothbrush holders, toilet tissue holders, soap dishes and cup holders]	"BASIX" [plastic sink strainers, paper tissue dispensers, soap dishes, mouse traps, and small kitchen utensils; bath and basin stoppers, rubber door stops and rubber cup plungers; nails, screws, tacks, brads, washers, picture hanging hardware, hooks and eyes, plant hangers, mirror holding hardware, cabinet hardware, door stops, toggle bolts, wall anchors, barrel bolts, locks, latches, hinges, sink strainers, and shower curtain rings all made primarily of metal]	Keam	No

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