

**SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD
February 23-27, 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
2-23	OPP OPP	91151405 91151406	Rodale, Inc. v. Healthy Heart Review	Hairston Chapman* Holtzman	2(d)	Opposition Sustained in both cases	<i>numerous marks comprising or including the word "PREVENTION", including: "PREVENTION" [magazine]; "PREVENTION" [production of radio and TV programs; and entertainment services, namely, a continuing series of programs in the fields of health, fitness, diet, exercise and lifestyle distributed over radio, TV, satellite, cable, audio and visual media and the Internet; information services in the fields of health, fitness, diet, exercise and lifestyle provided via an Internet website; etc.]; and "PREVENTION AT WORK" [educational services, namely conducting seminars on various health topics, and for providing health information; fitness testing; nutrition counseling, and motivational programs in the nature of health, fitness and nutritional counseling]</i>	<i>two applications to register the mark "PREVENTION MD" for [medical testing and diagnostic services, and vaccinations] and for [educational services, namely, instruction in first aid, automated external defibrillation, cardiopulmonary resuscitation, wellness, travel medicine, and other life support and first aid training]</i>			No

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2-24	CANC CANC CANC CANC CANC	92030319 92030392 92030394 92030502 92030579	Master Builders, Inc. ChemRex, Inc., and MBT Holding AG v. Polymerica, Inc.	Sams Hohein Chapman*	2(d); affirmative defenses of laches, acquiescence and equitable estoppel	Petition to Cancel Dismissed in all five cases	<i>a family of marks containing the term "MASTER," used on cement, concrete, mortar, grout, and masonry related goods, including the following marks:</i> "MASTERSEAL" [material to be applied to the surface of masonry to form a colorless surface waterproofing coating thereon]; "MASTERPLATE" [material to be used as an ingredient for concrete, mortar, and the like to improve hardness and resistance to wear and corrosion, and to lengthen the life of structures made therefrom]; <i>and the marks</i> "MASTERKURE," "MASTER BUILDERS," "MASTERCRON," "MASTERFLOW," "MASTERTOP," "MASTERFILL," "MASTERPAVE," "MASTER TITE," <i>and</i> "MASTERPATCH" [all for the same or related goods]	"MASTERPROOF" (and design) [waterproofing compound for application to concrete floors and decks]; "MASTERQUARTZ" (and design) <i>and</i> "MASTERSHIELD" (and design) [both marks for epoxy compound applied as a surface coating to restore and protect concrete slabs and floors]; "MASTERSPEC" (and design) [epoxy material for bonding skid resistant materials to hardened concrete]; <i>and</i> "MASTERPIECE" [decorative thin -set epoxy surfacing compound]			No

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2-24	EX	76313855	GMAC Mortgage Corp.	Hanak* Hairston Walters	2(e)(1)	Refusal Affirmed		"WAREHOUSE-BANK.COM" [commercial lending services, namely, providing loans and lines of credit to mortgage banks and brokers]		Alt	No
2-24	EX	76302336	Vega Wave Systems, Inc.	Simms Hanak* Rogers	2(d)	Refusal Affirmed as to all three classes of the application		"VEGA WAVE SYSTEMS" (in stylized form) [in Class 9: components and equipment used in optical communications systems, namely, optical transmitters, optical receivers, optical modulators, optical switches, integrated optical circuits and systems, components and equipment used in wireless communications systems, namely, transistors and integrated circuits for radio-frequency amplifiers, oscillators, filters, mixers, transmitters, receivers; in Class 40: manufacture of optical and wireless communications components and equipment to the specifications and orders of others; in Class 42: design of optical and wireless communication components and equipment for others]	"VEGA" [electrical communication and control equipment, namely, transmitters, receivers, signaling boards, dual tone multi frequency encoders and filters]	Faint	No

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2-24	OPP	91124457	Novartis Int'l. Pharmaceutical, Ltd. v. Genetic Immunity, LLC	Seeherman* Walters Bucher	2(d)	Opposition Sustained	"DENA VIR" [pharmaceutical preparations, namely, antivirals]	"DERMAVIR" [vaccines and vaccine adjuvants]			No
2-24	EX	76175597	Interactive Logistics, Inc.	Simms Cissel* Hanak	whether applicant's recitation of services is sufficiently definite	Refusal Affirmed		"NAVITRACE" [computerized on-line services, namely, providing web access to information relating to supply-chain activity including shipment status and history]		J. Dalier	No
2-25	EX	78061994	Modern Builders Supply, Inc.	Seeherman* Hairston Drost	whether applicant's specimens show trademark use of its mark on its recited goods	Refusal Affirmed		"THERMALTECH" [non-metal windows and doors]		Gaskins	No
2-25	EX	75832932	Worldwide Financial Service, Inc.	Seeherman Bucher* Bottorff	whether the term applicant seeks to register functions as a mark for its services	Refusal Affirmed		"CLICK OR CALL" [loan financing services, namely, mortgage lending services, secured or unsecured loan financing services and providing financial advice regarding loan financing, all provided via the Internet]		Collins	No

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2-26	EX	76280695	Andrea I. Weinstein	Seeherman* Bottorff Rogers	whether applicant's original specimens show service mark use of her mark on her recited services; whether applicant's substitute specimens were in use as of the date of filing of the amendment to allege use and amendment to Supp. Reg.	Refusal Affirmed		"RETIREMENT REBATE PLAN" [providing rebates for online purchases made via a portal site comprising participating retail establishments, such purchases providing for remittances to a retirement account with a participating broker or bank]		R. Herman	No
2-26	EX	76149873	Kohl's Illinois, Inc.	Cissel Hairston* Bottorff	2(d)	Refusal Affirmed as to both cited registrations		"BABY AND ME" [maternity clothing, namely, woven tops, denim pants, knit tops, pill pants, sleepwear, pant sets, dresses, jumpers, knit pants, and shorts]	<i>2 cited registrations owned by the same entity:</i> "BABY 'N ME" [nursing bras and maternity foundation garments, namely, stockings, panties, slips and petticoats] <i>and</i> "BABY 'N' ME" [bib for nursing mothers to use for discreet breastfeeding]	Altre	No

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2-26	OPP	91116136	Little Scientists Franchise Corp. v. Zorix Int'l, Inc.	Walters Bucher Bottorff*	2(d) [whether opposer properly made of record any evidence in support of the opposition]	Opposition Dismissed	"LITTLE SCIENTISTS" and "LITTLE SCIENTISTS A HANDS-ON APPROACH TO LEARNING" (and design) [<i>goods and services in various classes</i>]	"YOUNG SCIENTIST" [scientific toys, namely, toy telescopes, toy microscopes, toy electronic kits and other toy educational kits comprising slides, cassettes, and the like]			No
2-26	OPP OPP	91116967 91116968	Califon Productions, Inc. v. Bob Stupak	Seeherman Hohein* Hairston	2(d)	Opposition Sustained in both cases	"WHEEL OF FORTUNE" [board games; entertainment services rendered through the medium of television, namely, a TV series game show; computer game programs; slot machines; promoting the sale of others' goods and services through distribution of printed materials and advertising for promotional contests]	2 applications to register the mark "WHEEL OF MISFORTUNE": for [electronic gaming machines] and for [disposable printed scratch-off, tear-off and pull tab tickets for playing games of chance]			No
2-26	EX	76376895	GBSI Management, Inc.	Simms Seeherman Quinn*	2(e)(1)	Refusal Affirmed as to both classes of goods		"SARAPINOY" [<i>in Class 29: cooked and uncooked meats and poultry; in Class 30: cakes, cookies, pies, breads, rolls, tarts, powdered mixes for bakery products</i>]		Hughitt	No

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2-26	EX	76359997	Thomas R. Tomei	Seeherman* Walters Bucher	2(e)(1)	Refusal Affirmed		"WORLDWIDE MARINE" [retail store services featuring boats, powerboats, sailboats, pleasure yachts, boat parts and accessories for use on boats]		K. Le	No
2-27	EX	76182175	M & N Plastics, Inc.	Walters Chapman* Rogers	whether the matter applicant seeks to register functions as a trademark for its goods or is merely product ornamentation	Refusal Reversed		"JOE COOL" [plastic sleeves providing thermal protection to users of hot drink cups]		Pino	No
2-27	OPP	91150425	Genesis Leverage Develop- ment Corp. v. Ulker Gida Sanayi Ve Ticaret A.S.	Cissel Bottorff* Rogers	2(d)	Opposition Dismissed	"SMILK" [fruit flavored flavorings, other than essential oils, for milk beverages] <i>and</i> "SMILK" [flavored milk]	"S'MILK" [chocolate bars and chocolate-based candies]			No
2-27	OPP	91120051	Girl Scouts of the United States of America v. Girlsports Brand, Inc.	Seeherman Hairston Rogers*	2(d)	Opposition Sustained	"GIRLSPORTS" and other marks incorporating the term "GIRLSPORTS" [programs that promote the social, physical and intellectual growth and development of girls; clothing and other collateral goods]	"GIRL SPORTS BRAND" (in stylized form) [t-shirts, shorts, sweatshirts, sweatpants, and caps]			No

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2-27	EX	76239956	Societe des Produits Nestle S.A.	Hohein* Hairston Walters	2(e)(1)	Refusal Affirmed as to the goods in both classes		"SPA CUISINE" [<i>in Class 29: prepared entrees consisting primarily of meat, fish or poultry; in Class 30: prepared entrees consisting primarily of pasta or rice</i>]		Corea	No
2-27	OPP OPP OPP OPP	91111355 91111375 91114616 91115259	The William Carter Co. v. H.W. Carter & Sons, Inc.	Seeherman Bottorff* Drost	2(d)	Opposition Sustained in all four cases	"CARTER'S" (in typewritten and cursive form) [underwear, pajamas, sleepers; bedding for infants, namely, cribsheets, blankets, towels and face cloths; clothing for infants and children, namely, underwear, swimwear, shirts, blouses, dresses, skirts, pants, slacks, shorts, coveralls, creepers, overalls, jackets, vests, sleepwear, bunting, bibs, booties, bonnets, and slippers; children's toys and playthings, namely, rattles and dolls]	<i>4 applications to register the mark "CARTER'S WATCH THE WEAR": for [pajamas, nightgowns, nightshirts, and bathrobes] and for [disposable diapers] and for [hosiery] and for [toys, namely, board games, card games, stuffed toy animals, dolls, and jigsaw puzzles]</i>			No

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