

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD
October 25-29, 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
10-26	EX	75372720	Luppen Holdings, Inc.	Hanak Hairston* Bucher	2(e)(1); 2(a) [false suggestion of a connection]; 2(d)	Refusal Reversed		"PERSONAL POST OFFICE" [hand-held metal scales for weighing letters and small packages]	<i>4 cited registrations, all owned by the same entity:</i> "UNITED STATES POST OFFICE," "UNITED STATES POST OFFICE EXPRESS," "UNITED STATES POST OFFICE" (and eagle design), and "UNITED STATES POST OFFICE EXPRESS (and eagle design) [<i>all four marks for mail services, namely, sorting, handling, and receiving packages and letters; retail store services featuring stamps, philatelic products, stationery, and other mailing materials, novelty items, and other merchandise; postal services, namely, packaging articles for transportation, letter and parcel delivery and rental of mailboxes</i>]	Belenker	No
10-26	EX	76406229	RFA Inc.	Chapman Bottorff* Rogers	2(e)(1)	Refusal Affirmed		"RAIN FOREST TILAPIA" [fish]		DuBois	No

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10-26	OPP (SJ)	91157915	Ship Smart, Inc. v. Clifford Holdings, Inc.	Bucher Rogers Drost [Opinion "By the Board" (Kuhlke)]	2(d)	Opposition Sustained as to all four classes (Opposer's motion for summary judgment granted)	"SHIP SMART" [a wide range of packaging, moving and delivery services, including packaging and crating articles for transportation, pick up and delivery services, uncrating and set-up services, moving van and furniture moving services, freight transportation by car, truck, ship, moving van, railway; and providing information about packaging, delivery and freight forwarding services]	"SHIP SMART" (and design) [in Class 35: advertising and business services, namely, business management; franchising services, namely, offering the technical assistance and establishment of retail mailing, shipping, faxing and electronic communication outlets; retail store services, namely, offering stamps, office supplies and decorative mailing packages; in Class 38: communications services, namely, facsimile transmission and retrieval services, electronic transmission and wire transfer of messages and data, electronic store-and-forward messaging; in Class 39: transportation services, namely, freight ship transport of parcels, delivery and express delivery of goods and parcels via air, truck, ship, train, bus; in Class 42: notary public services]			No

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10-26	EX	75776753	Rodale Inc.	Hohein* Hairston Holtzman	2(d)	Refusal Affirmed		"LIVING BETTER LONGER" [magazines in the field of health, fitness, diet, exercise, and lifestyle]	"LIVING BETTER, LONGER" [retail store services featuring nutritional products, beverage bar, vitamins, minerals, herbs, protein powders, supplements, nutrient-rich foods, enzymes, body care products, teas, coffees, candles, incense, pillows, bath robes, aromatherapeutic products, ceramic items, juicers, books and other periodicals relating to nutrition, cards and stationery, and air purifiers]	Capshaw	No
10-26	EX	76404296	Robbie Pierce	Hanak* Quinn Hohein	2(d)	Refusal Affirmed		"RUBICON BY MASTERCRAFT" [racing and performance after-market automobile interior parts, namely, seats, headrests, safety upholstery, safety nets, safety belts for automobile seats, and fittings for the same]	"RUBICON" [motor vehicles, namely, automobiles and structural parts therefor]	Neville	No

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10-26	OPP (R)	91118745	Sharp Kabushiki Kaisha v. ThinkSharp, Inc.	Seeherman Hairston* Chapman	2(d); whether applicant's mark is barred from registration by res judicata	Request for Reconsideration Granted to the Extent that Opposer's res judicata claim is considered tried by implied consent of the parties, but judgment entered for applicant on that claim; Request for Reconsideration otherwise denied (Opposition Dismissed as to both classes of goods and services)	"SHARP" [<i>a wide variety of electrical and/or electronic products and components</i>]	"THINKSHARP" [<i>in Class 16: computer software for use as education programs in the fields of problem solving and critical thinking, pre-recorded videocassette tapes featuring education programs in the field of problem solving and critical thinking; and CD-ROMS containing education programs; in Class 41: educational services, namely, providing information, conducting educational seminars and distributing education materials via classroom instruction, the Internet, and satellite transmission, in the fields of problem solving and critical thinking</i>]			No

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10-26	OPP	91106261	Diners Club International Ltd. v. Rosenbluth Int'l, Inc.	Hanak Hairston Walters*	2(d) [priority]	Opposition Sustained	"GLOBAL VISION" [computer software designed to manage reporting of travel expenses]	"GLOBAL VISION" [computer software for use in the travel industry for information management]			No
10-27	EX	76406586	The Danielson Co., Inc.	Hohein Walters Drost*	2(e)(5) [de jure functional]; whether, if not de jure functional, applicant's product configuration has acquire distinctiveness under 2(f)	Refusal Affirmed on both grounds		the three-dimensional, "half cube" configuration of applicant's goods [crab traps]		Stokols	No
10-27	EX EX	76289653 76289654	Corporate-HOPE, Ltd.	Walters Chapman Drost*	2(d)	Refusal Affirmed in both cases		"CORPORATE HOPE" and "CORPORATE HOPE" (and design) [both marks for conducting workshops, seminars, conferences, retreats and professional coaching in the field of self-improvement to enhance executive women's professional development]	"HOPE" [educational services, namely, seminars and lectures on self-improvement to assist people in improving their personal and professional marketing skills for the purpose of obtaining employment and/or succeeding in their chosen profession]	DeFord	No
10-27	EX	76365834	Nuova Castelli S.p.A.	Hohein Walters Bottorff*	2(e)(1)	Refusal Affirmed		"TIRAMISÙ" [cheese, milk and milk beverages containing coffee]		McCauley	No

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10-27	EX	76354346	HEB Grocery Co., LP	Quinn Bottorff Drost*	2(e)(1)	Refusal Affirmed in both classes		"SNACK BITES" [in Class 29: packaged serving consisting primarily of meat, cheese, vegetables and fruits; in Class 30: packaged serving consisting primarily of crackers, cookies and bagels]		Sharper	No
10-28	OPP	91154019	Deborah Heart and Lung Center v. Deborah Strange-Browne Inflammatory Breast Cancer Foundation	Seeherman Quinn Chapman*	2(d)	Opposition Sustained as to both classes	"DEBORAH" [healthcare services; dissemination of information to aid in combating diseases; scientific research for others relating to diseases] and "DEBORAH . . . THE HEART OF NEW JERSEY" [charitable fund raising services; patient health care services]	"DEBORAH STRANGE-BROWNE INFLAMMATORY BREAST CANCER FOUNDATION" (and design) [in Class 36: charitable fundraising services for inflammatory breast cancer research and raising money for community health awareness programs; in Class 41: education services, namely, community health awareness programs in the nature of seminars and classes]			No
10-28	EX	76358351	Norm Reeves, Inc.	Seeherman Chapman* Holtzman	whether the matter applicant seeks to register functions as a service mark for the recited services	Refusal Affirmed		"PRICE PROTECTION GUARANTEE" [automobile dealerships]		Reihner	No

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