

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD

April 26-30, 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
4-26	EX	76159890	Tri/Mark Corp.	Simms* Seeherman Hairston	whether applicant's specimens show trademark use of its mark on its recited goods	Refusal Affirmed in both classes		"E-ACCESS" [in Class 9: latches and handles having electronic locks, for use on fire trucks; latches and handles having electronic locks, for use on freestanding industrial cabinets and enclosure systems that house and protect electrical data communications, instruments and control equipment; in Class 12: latches and handles having electronic locks, for use on agricultural and construction vehicles, motor homes and a variety of other vehicles]		Gilbert	No
4-28	EX	76397303	Anabec, Inc.	Hohein Bucher* Drost	whether applicant's specimens show service mark use of its mark for its recited services	Refusal Affirmed		a design mark incorporating cartoon-like images of "sick buildings" [environmental services, namely, architectural decontamination, indoor air quality improvement and surface remediation]		Kazazian	No
4-28	OPP	91151374	Mountain Ocean, Ltd. v. Ocean 2 Mountain Outdoor Products, Inc.	Quinn Holtzman Drost*	2(d)	Opposition Sustained	"MOUNTAIN OCEAN" [skin lotion]	"OCEAN 2 MOUNTAIN OUTDOOR PRODUCTS" [sun block, sun screen, skin emollients, after-sun lotion, skin lotion, skin moisturizer, skin conditioner, body cream and hand cream]			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

April 26-30, 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
4-28	EX	76021045	Titan International, Inc.	Quinn Hohein Drost*	2(d); Section 6 disclaimer requirement of term FWD	Refusal Affirmed but only under 2(d) on basis of registered mark CON-TRAK-TOR		“CONTRACTOR FWD” [tires, namely, tires for vehicles used in the construction, earthmoving, and mining industries]	“CON-TRAK-TOR” (in stylized form) [rubber tires for vehicles] <i>and 3 other registered marks, all owned by the same entity:</i> “FWD” [trucks, fire engines, truck-trailers, trailers, and custom-made vehicles, and parts thereof]; “FWD” (and background design) [trucks, truck trailers, and custom-made land and amphibious vehicles]; and “FWD” (in stylized letters) [motor-driven trucks]	Gaynor	No
4-28	EX EX	76328037 76328039	Matsushita Electric Corp. of America	Simms Hohein Walters*	Section 6 disclaimer requirement of the words “3 IN 1” and “2 IN 1”	Refusal Affirmed in both cases		“3 IN 1 DIGITAL CAMCORDER WEB CAM DIGITAL STILL CAMERA” (and design) <i>and</i> “2 IN 1 DIGITAL CAMCORDER DIGITAL STILL CAMERA” (and design) [both marks for digital camcorders having the capability of functioning as a digital still camera and/or as a camera providing connection to the Internet or web]		Cataldo	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

April 26-30, 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
4-28	EX	76311058	Employ-Ability, Inc.	Seeherman (D) Walters* Bottorff	2(e)(1)	Refusal Affirmed		"EMPLOYABILITY" [employment services, namely, employment hiring, recruiting, placement, staffing and career networking services, employment counseling, all for the disabled population]		Keating	No
4-28	EX EX	76203209 76203211	Thomas J. Manski	Hanak Walters Holtzman*	2(e)(1)	Refusal Reversed in both cases, but disclaimer of word FLAT entered in both applications		"FLAT VUE" and "FLAT VU" [both marks for flat video display devices in the nature of monitors, computer displays, laptop computers, notebook computers, TVs, cellular phones, beepers, digital assistants, portable Internet devices, medical test equipment, namely, MRI monitoring screens, computer tomography monitoring screens, and interoperative monitoring screens for endoscopy and stereotactic surgical procedures, and electronic advertising displays]		Brown	No
4-29	CANC (SJ)	92042101	Hawaiian Moon, Inc. v. Rodney Doo	Simms Seeherman Holtzman [Opinion "By the Board" (Zervas)]	fraud (in submission of statement of use)	Petition to Cancel Granted (Petitioner's motion for summary judgment granted)		"HAWAIIAN MOON" [clothing and sportswear, namely, shirts, shorts, skirts, dresses, caps, swimwear, and sweatshirts]			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
April 26-30, 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
4-29	EX	78058457	Herbal Dynasty LLC	Simms* Quinn Hohein	2(e)(1)	Refusal Affirmed in both classes		"HERB AND ROOTS" [<i>in Class 5</i> : dietary and nutritional supplements and medicinal herbal teas; <i>in Class 30</i> : herbal teas]		Sappenfeld	No
4-29	EX	76372028	Oldcastle Glass, Inc.	Simms Bottorff Rogers*	2(e)(1)	Refusal Reversed		"E•FAB" [glass, namely, glass panels; tempered glass panels for building purposes]		Delaney	No
4-29	EX EX	76301508 76301509	G-Net Media, LLC	Seeherman Hanak Rogers*	2(d)	Refusal Affirmed in both cases		"G-NET" and "GNET" (in stylized form) [both marks for cable and satellite TV programming services in the field of TV video games and interactive TV; and providing online video games and information related to video games via an Internet website]	"GNET GWINNETT NEWS & ENTERTAINMENT TELEVISION" [cable TV broadcasting services]	Stine	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
April 26-30, 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
4-30	EX	78022004	Jeffrey R. Belanoff	Simms Seeherman Hohein*	2(e)(1)	Refusal Affirmed		"SUPERSURVEYS" [conducting public opinion polls and surveys for non-business, non-marketing purposes]		Gartner	No
4-30	EX	76276166	Pacific Life Insurance Company	Hanak Walters* Holtzman	2(d)	Refusal Reversed		"PACIFIC FUNDS" (and design) [financial services in insurance and annuities underwriting; mutual fund management, investment, distribution and brokerage services; mutual fund consultation services; investment consultation and investment advice]	"PACIFIC CAPITAL FUNDS" (and design) [mutual fund advisory services]	Stoides	No
4-30	EX	76339123	Steck-Vaughn Company	Hohein Hairston* Holtzman	2(d)	Refusal Affirmed		"POWER UP! BUILDING READING STRENGTH" [computer software and prerecorded audio tapes for teaching reading]	"POWER UP!" (in stylized form) [computer programs and instruction manuals sold as a unit]	Meier	No
4-30	OPP	91115854	AEGON Financial Services Group, Inc. v. Rogers Publishing, Ltd.	Quinn* Hairston Bucher	2(d)	Opposition Sustained	"ADVISOR'S EDGE" [variable annuity underwriting services] and "ADVISOR'S EDGE SELECT" [annuity underwriting services]	"ADVISOR'S EDGE" [magazines concerning finance and investments]			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
April 26-30, 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
4-30	OPP	91118502	Arrowhead Mills, Inc. v. Good Health Natural Foods, Inc.	Quinn* Bucher Holtzman	2(d)	Opposition Dismissed	"GARDEN GRAINS" [grain based snack food] and "GARDEN OF EATIN'" (and design) [natural food products, namely, corn chips, tortillas and bread] and "GARDEN OF EATIN'" (in stylized form) [bean dip; natural food products, namely, corn chips, tortillas, bread and salsa]	"GARDEN CHIPS" [vegetable-based snack foods]			No
4-30	EX (R)	76207565	Innovation Development Group, Inc.	Sams Hanak* Bucher	2(e)(1)	Reconsideration Denied		"TICK TAPE" [hand tool for removing insects attached to human or animal hosts]		Hickey	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