

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

September 27 – October 1, 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
9-28	EX	76264819	Junior Achievement, Inc.	Seeherman Hohein Drost*	2(d)	Refusal Reversed		“NATIONAL BUSINESS HALL OF FAME” [promoting excellence in young people through the issuance and presentation of an annual award in the field of business to selected individuals who have distinguished themselves as leaders within the private enterprise system and whose efforts have contributed to the advancement of the nation]	“ANBHF AMERICAN NATIONAL BUSINESS HALL OF FAME” (and design) [educational services, namely, recognizing and celebrating leaders in American business]	Sheffield	No
9-28	OPP	91117391	Minnesota Timberwolves Basketball Limited Partnership v. Paul R. Mikus	Seeherman (D) Chapman Drost*	2(d)	Opposition Sustained	mark comprising the letters “M” and “T” in a design format [various items of clothing, including t-shirts, sweatshirts, sport shirts, rugby shirts, caps, etc.; entertainment services, namely, rendering live basketball games, etc.; various publications and printed matter in the field of basketball; pre-recorded audio, video, and laser discs, etc. featuring basketball; computer software, namely, screensavers and multimedia programs relating to basketball]	mark comprising the letters “T” and “M” in a stylized form [headgear, namely, hats; and clothing, namely, shirts]			No

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9-28	OPP	91125778	National Association of Realtors v. Titan Int'l, Inc.	Hanak Chapman Quinn*	2(d)	Opposition Dismissed	"REALTOR" [collective service mark for brokerage of real estate, etc.]; "REALTOR.COM" [providing an on-line database with real estate listings carried by registrant's members]; and "REALTOR VIP" [association services, namely, developing group purchasing programs, etc., for the benefit of registrant's members; financial and insurance services for registrant's members]	"REALTOR" [tires]			No
9-28	EX	76315835	BBK, Ltd.	Hanak Chapman* Rogers	2(d)	Refusal Affirmed		"BBK" [turnaround management consulting services, namely, corporate renewal, operations improvement, interim management, organizational and financial restructuring, litigation support services, and product and supplier analysis, all for troubled companies]	"BB&K" [financial and investment advisory services]	Chhina	No
9-28	EX	78174023	Bongrain S.A.	Simms Quinn Bottorff*	2(e)(4)	Refusal Affirmed		"HOLSBERG" [milk, cheese, and dairy products, excluding ice cream, ice milk, and frozen yogurt]		Delaney	No

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9-28	EX	76445495	Yamaha Corp.	Simms* Hanak Hohein	2(d)	Refusal Affirmed as to both cited registrations		"FLYING DRAGON" [musical instruments, namely, drums and percussion instruments, and foot pedals for drums and percussion instruments]	<i>2 cited registrations, both owned by the same entity:</i> "DRAGON" [pick-ups for electric guitars; musical instruments, namely, guitars] <i>and</i> "DRAGON 2000" [guitars]	Verhosek	No
9-28	EX	76262553	Jonathan R. Iverson	Quinn Hairston* Bucher	2(e)(1)	Refusal Affirmed		"SCUBA SYSTEMS" [scuba equipment, namely, masks, fins, and travel bags]		Collins	No
9-28	EX EX	76438030 76438032	Final Mix, Inc.	Seeherman Bucher* Drost	2(e)(1)	Refusal Affirmed in both cases		"FINAL MIX" [computer software for use in creating sound] <i>and</i> "FINAL MIX" [audio and visual production services]		Delaney	No
9-28	EX	78032951	McDonald's Corp.	Seeherman Bottorff* Holtzman	whether applicant's specimens show service mark use in connection with its recited services	Refusal Reversed		"RONALD McDONALD CARE MOBILE" (and design) [charitable fundraising services]		Blohm	No
9-28	EX	76442899	Gregory	Hohein Holtzman Rogers*	2(e)(4)	Refusal Affirmed in both classes		"ROGAN" (in stylized lettering) [<i>in Class 18:</i> fabric handbags, leather handbags, and wallets; <i>in Class 25:</i> pants, shirts, and footwear]		Buongiorno	No

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9-29	EX	76167910	Zimmerman & Partners Advertising, Inc.	Seeherman* Chapman Drost	2(d)	Refusal Affirmed		“BRANDTAILING” [advertising agency services, namely, promoting clients through radio, television, print and other forms of media for next day sales through the creation of a marketing/business plan from which a specialized five step advertising campaign is created and implemented]	“BRANDRETAIL” [printed reports regarding marketing and advertising; marketing research and preparing advertisements for others]	Fickes	No
9-29	EX	76082804	Inventor's World, Inc.	Seeherman* Hairston Walters	2(e)(1)	Refusal Affirmed		“THE AMERICAN INVENTOR” [printed publications, namely, books, magazines, and pamphlets in the field of inventors and inventions]		Keating	No
9-29	OPP	91105133	The Pep Boys Manny, Moe & Jack of California v. Teera Hanharutavian and Krieng Wongtangjai	Simms Quinn Bucher*	2(d); dilution; whether the application was void ab initio (i.e., whether applicant's mark was in use in commerce prior to the filing date of its application); fraud	Opposition Sustained in both classes on the ground that the application was void ab initio and on the ground of fraud	“PEP BOYS” [retail store services in the field of automotive accessories] and a number of related marks for related goods and services and promotional items	“CARRYBOY” (and design) [in Class 12: truck accessories, namely, front and rear bumper, vehicle seats, camper shell, gear shift lock, wheel house liner, anti-theft door security lock, anti-sway bar, finished safety glass windows for vehicles, and side bumper; in Class 27: fit floor tray, namely, floor mats for vehicles]			No

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9-29	CANC	92040061	Igloo Product Corp.	Simms* Chapman Drost	2(d)	Petition to Cancel Granted only as to certain items in Class 21 of respondent's registration, namely, "food and beverage containers, namely, portable coolers and drink holders"	"CARGO" [water containers, ice chests, and coolers]; "COOL CARGO" [lunch kits]	"KARGO GEAR" [in Class 12: travel and storage products specifically adapted for use in automobiles and strollers, namely, storage pockets that temporarily affix to vehicle seats, car seats, baby strollers, lap trays, game trays, seat protectors, fitted seat belt covers, fitted car seat covers, window shades, and drink holders attached to cars and strollers; in Class 21: food and beverage containers, namely, portable coolers and drink holders, and travel trays with bibs sold as a unit]			No
9-29	CANC	92040726	CurtCo Media Labs, L.L.C. v. Vincent Testa and Maria Testa	Simms Seeherman*	abandonment	Petition to Cancel Granted		"HOME ENTERTAINMENT QUARTERLY" [magazine dealing with products used at home to provide entertainment]			No
9-29	EX	76101362	American Food Company, Inc.	Quinn Walters* Drost	genericness [whether applicant's mark is registrable on the Supplemental Register]	Refusal Reversed		"THE BEEF JERKY OUTLET" [retail store services featuring meat products]		L. King	No

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9-29	EX	76001834	Waste-Bid.com, Inc.	Seeherman Hairston Walters*	2(e)(1)	Refusal Reversed in both classes		“WASTEBID.COM” [<i>in Class 35: providing a website through which waste and recycling collectors, processors, and disposers may submit bids to waste generators seeking to purchase their services and related products; in Class 37: providing information via an Internet web site in the fields of waste collection, recycling collection, and waste disposal, to facilitate the business to business purchasing of such services and related equipment and materials through the Internet, and to facilitate electronic negotiations between buying organizations and their trading partners in these fields</i>]		Baird	No
9-29	EX	76424261	Hypercom Corp.	Simms Rogers Drost*	2(e)(1)	Refusal Affirmed		“SECURITY BIOMETRICS” [computer hardware and software for use with identification systems and point-of-sale transaction systems for identifying and verifying identity of individuals using fingerprint, voice, eye and facial feature data]		Weimer	No

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9-29	EX	75716024	Donald S. Dowden	Seeherman* Holtzman Drost	2(e)(1)	Refusal Affirmed		"FEDERAL LAW PUBLISHING" [publication of newsletters featuring information on intellectual property law]		Davis	No
9-29	EX	76411149	Independent Media Marketing, Inc.	Hanak Hairston Drost*	2(d)	Refusal Affirmed as to all cited registrations		"WARD LAFRANCE" [fire trucks and fire truck parts, namely, body structural parts for fire trucks]	<i>5 cited registrations, all owned by the same entity:</i> "AMERICAN LAFRANCE" (and design) [fire trucks and fire truck parts, namely, body structural parts for fire trucks]; "AMERICAN LAFRANCE EAGLE" [fire trucks and fire truck parts, namely, cabs, chassis, and body structural parts for fire trucks]; "AMERICAN LAFRANCE" [truck parts and components, namely, cabs, chassis, and body structural parts]; "AMERICAN LAFRANCE" (and design) [fire engine trucks comprising pumping engines and ladders]; "AMERICAN LAFRANCE" [engine driven fire apparatus]	Steplight	No

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9-29	EX	78144064	Internet Profit Systems, LLC	Chapman Bottorff Drost*	2(e)(1)	Refusal Affirmed in both classes		"INTERNET PROFIT SYSTEMS" [<i>in Class 35</i> : market research and advertising services to others who offer goods and services over the Internet, television, print, and other media, by providing statistical research in the field of marketing products and services, by providing assistance in the development of methods of promoting businesses' goods and services and by providing assistance in the development of methods of merchandising, marketing and promoting of products and services offered over the Internet by others; <i>in Class 42</i> : technical consultation in the field of Internet retailing websites and operating Internet retailing websites; designing, improving and implementing Internet retailing websites for others]		Swain	No
9-29	EX	75941574	S. Goldberg & Co., Inc.	Hairston Bottorff Holtzman*	2(d)	Refusal Affirmed		"SG FOOTWEAR" [footwear distributed and sold directly to department stores, discount department stores and mass marketers]	"SG" (in stylized form) [gloves, socks, and scarves]	Fickes	No

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9-29	OPP	91152588	Red Bull GmbH v. Carl Cochran	Simms Hairston* Bottorff	2(d)	Opposition Dismissed, but application remanded for determination of whether application is void ab initio (i.e., whether applicant's mark was in use in commerce prior to the filing date of its application)	various marks comprising or incorporating the words "RED BULL" [sports drinks and other products]	"RED RAVE" [sports drinks]			No
9-29	CANC	92026835	Excaliber Trading Corp. v. Akai Electric Co. Ltd.	Seeherman Hohein Holtzman*	abandonment	Petition to Cancel Dismissed	"AKAI" [home and automobile audio systems] (<i>bona fide intention to use</i>)	"AKAI" [video tape recorders; TV cameras; TV receivers; parts and accessories therefor, namely, converters, earphones, connecting cords, batteries, headphones, leather cases and tripods; and loudspeakers, audio frequency amplifiers, and FM receivers]			No

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9-29	EX EX	76382384 76382385	Open Bible Standard Churches	Hairston Bucher Drost*	2(d); Section 6 disclaimer requirement (of word BIBLE)	Refusal Affirmed as to disclaimer requirement only		“OPEN BIBLE” and “OPEN BIBLE STANDARD” [both terms identified as collective membership marks used to indicate membership in an organization of churches]	2 cited registrations, both owned by the same entity: “THE OPEN BIBLE” [a Bible series] and “THE NEW OPEN BIBLE” [Bibles]	Adkins	No
9-29	EX	76425929	41 Saxon Avenue Corp.	Quinn Walters* Rogers	2(d)	Refusal Affirmed (Note: Registration was not refused in Class 9 of this multiple class application.)		“SC LABORATORIES” [in Class 15: music and audio accessories, namely, guitar audio picks]	“SC” [musical instruments, namely, guitars and bass guitars]	Regan	No
9-30	EX	76036465	Antisense Pharma GmbH	Seeherman Quinn Bottorff*	genericness [whether applicant's mark is capable of registration on the Supplemental Register]	Mark found registrable on Supp. Reg. if applicant submits disclaimer of word ANTI-SENSE		“ANTISENSE PHARMA” [pharmaceutical preparations for the treatment of vascular, inflammatory, neoplasm, degenerative, infectious, congenital, autoimmune, traumatic, and endocrine diseases and disorders; veterinary preparations for the treatment of the above diseases and disorders in bovines, sheep, horses, cats and dogs]		Kim	No

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9-30	OPP CANC CANC	91108265 92027073 92029665	H-D Michigan, Inc. v. Boutique Unisex El Baraka, Inc. and 3222381 Canada, Inc.	Simms Hairston* Walters	2(d); fraud [asserted in all three proceedings] abandonment [asserted only in the two cancellation proceedings]	Opposition Sustained as to all classes of goods but on 2(d) grounds only and Both petitions to Cancel Granted as to all classes of goods on 2(d) grounds and on grounds of abandonment	“HARLEY-DAVIDSON SCREAMIN’ EAGLE PERFORMANCE PARTS” (and eagle design) [motorcycle parts and accessories; belt buckles; baseball caps; pins, lighters; patches/emblems]	91108265 —“SCREAMING EAGLE” [in Class 14: jewelry, namely, pendants, earrings, bracelets, rings, brooches; in Class 16: posters; in Class 18: wallets, handbags, satchels, cyclist bags, key cases; in Class 21: beer mugs; in Class 25: undershirts, shorts, swimsuits, dresses, skirts, pajamas, caps, scarves, head-bands; crest; leather skirts and coats, caps; eye shades; and jeans] 92027073 —“SCREAMING EAGLE” [in Class 21: coffee mugs; in Class 25: t-shirts, belts, sweat-shirts, pants; leather jackets] 92029665 —“SCREAMIN’ EAGLE” [in Class 18: wallets, handbags, satchels, cyclist bags, key cases, purses; in Class 25: belts, sweatshirts, pants, jeans, camisoles, shorts, bathing suits, dresses, skirts, pajamas, caps, hats, visors, scarves, head-bands, wristbands; leather skirts, jackets, coats, pants, gloves and boots; in Class 26: belt buckles not of precious metal; brooches not of precious metal]			No

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9-30	EX	78161902	Caffe D'Amore, Inc.	Seeherman Walters Holtzman*	2(d)	Refusal Affirmed in both classes		"ESPRESSIMO" [<i>in Class 30</i> : blended powder mix used in the preparation of cappuccino and cappuccino drinks; <i>in Class 32</i> : blended powder mix used in the preparation of cappuccino-flavored soft drinks]	"ESPRESSIMO" [electric espresso maker and parts therefor, for domestic and commercial use]	J. Dwyer	No
9-30	EX	76500431	Lancetti Cosmetics	Hairston Walters* Chapman	2(d)	Refusal Reversed		"LIGHT RESPONSE" [cosmetics, namely, foundation pressed powders and concealers]	2 cited registrations, owned by different entities: "RESPONSE" [hair shampoo] and "SKIN RESPONSE" [cosmetics, namely, a non-medicated lip conditioner]	Fisher	No
9-30	OPP	91111889	Archie Comic Publications, Inc. v. Chaoyang Baolansi Meticulous & Chemical Co., Ltd.	Simms Chapman Rogers*	2(d)	Opposition Dismissed	"ARCHIE" [comic magazines, joke book magazines, and comic magazine series], "ARCHIE COMICS" (in stylized lettering) [magazine published quarterly], "ARCHIE" (and design) [comic magazines], and "ARCHIE" [licensed products, including animated TV shows, live action movies and videos, apparel, books, watches, gift and novelty items, toys and games]	"ARCHÉ" [cosmetics, namely, skin cream, hair pomades, beauty masks, face powder, rouge, lipstick, cotton puffs for cosmetic use, eyeshadow, nail polish, suntanning cream, hair waving lotion, hair spray, perfume, facial cleansers, hair mousse, talcum powder, hair shampoo, and hair conditioner]			No

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9-30	OPP	91154813	Calmia Ltd. v. ZAIJA Ltd. Zaklad Produkciji Lekow Spolka z o.o.	Chapman Holtzman* Rogers	2(d)	Opposition Sustained [contingent on issuance of a registration to opposer, based on its application under Section 1(b)]	"CALMIA" [all purpose cleaning preparation, beauty creams and lotions for the skin, face and body, cosmetics, etc.]	"CALMA" [a wide variety of non-medicated skin care preparations, shaving preparations, non-medicated lip care preparations, body soaps and gels, etc.]			No
9-30	EX EX	76198801 76198802	Rentalift, Inc.	Seeherman* Bucher Rogers	2(e)(1); whether applicant's mark "RENTALIFT" has acquired distinctiveness under Section 2(f)	Refusal Affirmed in both cases [disclaimer of "RENTALIFT" required in Ser. No. 7198802]		"RENTALIFT" and "RENTALIFT (and design) [both marks for rental of forklifts]		Kim	No
9-30	EX	75809642	Herzog	Simms Hairston Rogers*	whether applicant's specimens show use of the mark it seeks to register [mutilation]	Refusal Reversed		"FULL-FILL YOUR NEEDS" [machinery used in the packaging industry for filling containers of various sizes and shapes]		Martin	No

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