

**SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD  
October 4-8, 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
10-4	OPP	91120006	Oakley, Inc. v. Costa Del Mar Sunglasses, Inc.	Chapman* Holtzman Drost	2(d)	Opposition Sustained	"X-METAL" [sunglasses] <i>and a number of other marks, including several comprising single letters with the word "FRAME" or the word "WIRE," all registered for sunglasses and/or goggles</i>	"EX-FRAME" [optical and sunglass frames]			No
10-4	EX	76386380	Hyatt	Simms Hohein* Holtzman	2(d)	Refusal Affirmed in both classes		"BEAUTIQUE" [ <i>in Class 35: retail store services featuring beauty care products; and merchandizing beauty supplies, designer fashions, fashion accessories, jewelry, and footwear; in Class 44: beauty salons</i> ]	"BEAUTIQUE" [eyeliner pencil and crayons and lipliner pencil and crayons; combs and brushes for hair]	Wallace	No
10-5	EX (R)	76289638	ER Marks, Inc.	Seeherman Hairston Chapman*	2(d)	Request for Reconsideration Denied (Refusal Affirmed)		"Q CARD" (and design) [credit card services]	"Q-CARD" (and design) [credit card services]	Keam	No

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(2) \*=Opinion Writer; (D)=Dissenting Panel Member

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10-5	OPP OPP OPP	91124853 91150981 91151895	Commerce Bancorp, Inc. v. Martell & Associates Financial Services Co.	Seeherman* Hohein Chapman	2(d)	Opposition Sustained in all three cases (on the basis of opposer's common law use of its "COMMERCE BANK" mark)	<i>common law use of:</i> "COMMERCE BANK" and "C" design [banking and mortgage lending services]; <i>pleaded registrations for:</i> "COMMERCE CAPITAL MARKETS" [financial planning services, etc.]; "COMMERCEWOW!-ZONE" and "COMMERCEWOW!-ZONE" (and design) [both marks for various educational services]; "THE COMMERCE ADVANTAGE" [insurance brokerage services in the field of personal automobile and homeowner's insurance], and "COMMERCE" [various insurance agency services]; "C" design [banking services]	"COMMERCE TRUST" [banking; credit insurance brokerage] "COMMERCE TRUST" [mortgage banking, mortgage lending, and mortgage brokering] "COMMERCE TRUST" (in stylized form) [financial services, namely, mortgage banking, mortgage lending and mortgage brokerage services]			No

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10-5	EX (R)	76413647	Masco Corp. of Indiana	Seeherman* Quinn Hairston	2(d)	Request for Reconsideration Granted to extent that action is suspended pending possible expiration of cited registration		"SAXONY" [plumbing products, namely, kitchen faucets and replacement parts therefor]	"THE SAXONY" [plumbing fixtures, namely, sinks]	Oh	No
10-8	EX	76436149	Envirosolve Corp.	Chapman* Holtzman Rogers	2(e)(1)	Refusal Affirmed		"ECOC" [computer software, namely, software that supports the manual entry of data into a designated form which can be transmitted and/or stored on computer based media]		Madden	No
10-8	OPP (SJ)	91158079	Inspiration Software, Inc. v. Debra E. Roy	Simms Hanak Bottorff [Opinion "By the Board" (Skoro)]	2(d)	Opposition Dismissed (Applicant's motion for summary judgment granted)	"INSPIRATION" [computer programs in the field of idea development through visual diagramming, outlining and text creation; computer education training]	"INSPIRINGS" [preprinted cards bearing sayings, prayers or motivational messages sold individually or as a set and capable of being assembled or bound together]			No

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