

**SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD
September 12-16, 2005**

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
9-12	EX	75107678	Armament Systems and Procedures, Inc.	Quinn Hohein* Hairston	de jure functionality [whether applicant's mark is registrable on the Supplemental Register]	Refusal Affirmed		the color red applied to the entire surface of applicant's goods [hand-held nonfunctioning plastic training equipment in the shape of knives, radios, flashlights pistols, rifles, handguns, and shotguns for use in training law enforcement personnel]		Clark	No
9-12	EX	78347910	Karsten Mfg. Corp.	Seeherman* Hohein Holtzman	whether the mark depicted in applicant's drawing is a substantially exact representation of the mark as it appears in the specimens [mutilation]	Refusal Reversed		design mark [golf clubs]		Dwyer	No
9-13	EX	76378373	Dryvit Systems, Inc.	Quinn Holtzman Rogers*	2(e)(1) [genericness]; whether, if not generic, applicant's mark is registrable under Section 2(f)	Refusal Affirmed (based on genericness and, in the alternative, lack of distinctiveness under Section 2(f))		"INTERMEDIATE MESH" [fiberglass mesh used in the formulation of exterior building wall surfaces]		Alt	No

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

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9-13	EX	76462561	Weldas Company, L.P.	Walters Drost* Zervas	2(e)(5) [de jure functional]; whether, if not de jure functional, applicant's mark is inherently distinctive of its goods in commerce]	Refusal Reversed		rectangle design [protective helmet pads incorporating sweatbands therein for purposes of cooling, anti-vibration and comfort]		Matthews	No
9-13	EX	78126211	Mayce Edward Christopher Webber	Seeherman Holtzman Drost*	whether the mark depicted in applicant's drawing is a substantially exact representation of the mark as it appears in the specimens [whether the mark can be registered only in special form]; whether applicant may submit a substitute drawing	Refusal Affirmed (on the basis of both grounds of refusal)		"CWEBB" [clothing, namely, t-shirts, sweat shirts, warm up suits, jackets, head wear, tank tops, shorts, pants, socks and shoes]		Blohm	No

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9-13	EX	78315860	FA Marketing and Sales, Inc.	Hohein Hairston* Holtzman	2(e)(1); 2(d)	Refusal Affirmed (but only on the basis of 2(e)(1))		"KORD-END KLAMP" [adjustable extension cord retaining devices for prevention of disengagement of male to female adapter plugs]	"CORD CLAMP" [electrical plug receptacle connector]	Khan	No
9-14	EX (R)	76469243	Lynda Guber	Hanak* Hohein Rogers	2(e)(1)	Request for Reconsideration Denied (Refusal Affirmed)		"CONTACT YOGA" [books and magazines on the subject of meditation and exercise, manuals on the subject of instruction, newsletters featuring information about exercise, educational books and printed instructional, educational and teaching materials on the subject of meditation and exercise]		Ayala	No
9-14	CANC (SJ)	92043680	Trade Specialties, Inc. v. Bugatti Int'l. S.A.	Quinn Walsh Kuhlke [Opinion "By the Board" (Baxley)]	claim preclusion	Petition to Cancel Denied (Respondent's motion for summary judgment granted)		"VEYRON" [vehicles, namely, automobiles and structural parts thereof; games and playthings, namely, toy model cars]			No
9-14	EX (R)	76530298	Anything Goes, Inc.	Hanak* Hairston Chapman	2(d)	Request for Reconsideration of TTAB decision of 2/8/05 Granted and Refusal Reversed		"HT" [mail order catalog services featuring jewelry and online retail services featuring jewelry]	"HT" (enclosed within a triangle) [jewelry made of precious metals with or without precious or semi-precious stones]	Webster	No

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9-14	EX	78196985	Grendene, S.A.	Seeherman Chapman Kuhlke*	2(d)	Refusal Affirmed as to both cited registrations		"IPANEMA" (and design) [plastic thong sandals]	2 cited registrations, owned by different entities: "IPANEMA" [swimwear] and "IPANEMA" [footwear]	Jenkins	No
9-14	EX	78292708	Totally Low Carb Stores, Inc.	Grendel* Holtzman Kuhlke	2(d)	Refusal Reversed		"TLC FOODS" [retail store services featuring grocery products and convenience store items]	"T.L.C. CARD THANKS LOYAL CUSTOMERS" [retail grocery store services]	Kovalsky	No
9-15	OPP	91156741	Jamison Bedding, Inc. v. The Spring Air Company	Bucher Rogers Walsh*	2(d)	Opposition Sustained	"TRUE BALANCE" [mattresses and box springs]	"TOTAL BALANCE" [mattresses and box springs]			No
9-16	OPP (SJ)	91124776	Kmart of Michigan, Inc. v. Millyon Marketing Concepts	Quinn Chapman Zervas [Opinion "By the Board" (Cataldo)]	2(d); affirmative defenses of laches and acquiescence	Opposition Sustained (Opposer's motion for summary judgment granted)	"K MART" (and other marks incorporating the term "K MART") [retail variety store services and a wide variety of goods]	"2K-MART" [retail store, wholesale distributorships, and discount store services featuring a wide variety of products]			No
9-16	EX	76172450	Sagoma Plastics Corp.	Hohein* Bucher Drost	2(e)(1)	Refusal Affirmed		"IN MOLD HOLOGRAM" [molding machines, molds, tooling and parts therefor for creating fine pattern capable of producing holographic images directly on surfaces of molded and formed parts and products]		Watson	No

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9-16	EX	78207995	Market Valuation Institute, LLC	Chapman Bucher* Kuhlke	2(e)(1)	Refusal Affirmed		"THE OPTION VALUE INDICATOR" [financial services, namely, providing information and analysis in the field of financial investments; and providing financial and investment information via the Internet]		Coleman	No
9-16	EX	75982984	Lawman Armor Corp.	Holtzman* Drost Kuhlke	whether applicant's mark is registrable under Section 2(f)	Refusal Affirmed		"UNBREAKABLE" [security devices, namely metal anti-theft locks]		Baird	No

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