

**SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD**  
**September 19-23, 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
9-19	EX	76289621	KRB Seed Company, LLC	Bucher Drost Kuhlke*	genericness (plant varietal name)	Refusal Affirmed		"REBEL" [grass seed]		Sharper	Yes
9-20	OPP OPP	91116355 91124847	Carefirst of Maryland, Inc. v. FirstHealth of the Carolinas, Inc.	Quinn* Hairston Rogers	2(d); dilution; counterclaim for cancellation on the grounds of (1) abandonment and (2) non-use as to some of the services covered by the opposer's registration	Opposition Dismissed; Counterclaim for cancellation dismissed	"CAREFIRST" [collective membership mark for indicating membership in an organization of persons and medical providers in health maintenance, preventive medicine, prepaid medical plans, reduced health costs, and programs on fitness, prenatal care, substance abuse, and other health-related topics] <i>and</i> [newsletters pertaining to health care, medical care and membership services; underwriting and administration services, on a prepayment basis, relating to emergency medical care, <i>etc.</i> ; educational services, conducting seminars, classes, and workshops and lectures on nutrition, infant care, <i>etc.</i> ; health care services in the nature of an HMO, <i>and a number of other related services</i> ]	"FIRSTCAROLINA-CARE" [healthcare insurance claims administration services, third-party insurance claims administration services, and underwriting insurance for prepaid healthcare; health care in the nature of health maintenance organizations]			No

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

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9-20	EX	78243978	TSI Brands, Inc.	Hohein Bucher* Zervas	2(d)	Refusal Affirmed		"DEEP DYE" [clothing, namely, shirts and slacks; menswear apparel items, namely, shirts and slacks]	"DEEP DYE SELECT" [fibers used in manufacturing fabrics, clothing, and home furnishings]	White	No
9-20	OPP	91159010	Traditional Medicinals, Inc. v. Heartland Brewery, Inc.	Chapman* Grendel Zervas	2(d)	Opposition Sustained	"MOTHER'S MILK" [herb tea; dietary and nutritional supplements in the nature of herbal teas]	"MOTHER'S MILK MAIBOCK" [beer]			No
9-20	EX	76420605	First Draft, Inc.	Hohein Chapman Rogers*	whether the words applicant seeks to register function as a trademark for applicant's goods	Refusal Affirmed		"FERN MICHAELS" [series of fictional books]		Ankrah	Yes
9-21	EX	76516062	Desiccare, Inc.	Seeherman Quinn Drost*	2(d)	Refusal Affirmed		"MOLD-AWAY" [moisture absorbing kits comprising chemical compositions and apparatus, namely, silica gel, zeolite molecular sieves, clay, lime, calcium chloride, desiccant bags, synthetic bags, and plastic trays, all sold as a unit]	"MOLD AWAY" [mildew spot remover]	Gold	No

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9-21	EX	75826909	Saey N.V.	Seeherman Quinn* Holtzman	whether the matter applicant seeks to register functions as a mark and, if so, whether it is registrable under Section 2(f)	Refusal Affirmed in both classes		two holes and a handle on a tubular section of applicant's goods, the holes and handle designed to give the appearance of the eyes and nose features of a face [in Class 6: common or base metals and their alloys in sheet, rod, bar and/or billet form; portable metal building; metal tubes for general industrial use; metal chimney pots; in Class 11: barbecue grills and replacement parts therefor, namely, flues and lighting units; gas or electric cooking tables and built-in ovens; gas pressure cookers and electric pressure cookers]		Cain	No
9-21	OPP	91155117	Nissan North America, Inc. and Nissan Jidosh Kabushiki Kaisha v. Zimmer Neo-Classic Motor Car Company	Holtzman Drost* Walsh	2(d)	Opposition Sustained	"Z" [automobiles and structural parts thereof] and "300ZX" [automobiles and structural parts thereof]	"Z" (and design) [motor car and structural components thereof]			No

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9-22	EX	75935945	Station Casinos, Inc.	Quinn Hohein* Bucher	2(d)	Refusal Affirmed as to all three cited registrations		"DURANGO STATION" [clothing, namely, shirts, jackets, and hats]	3 cited registrations, all owned by the same entity: "DURANGO" [western boots; jeans, pants, shirts, jackets, and socks]; "DURANGO" (and design) [boots, socks, jackets, shirts]; and "DURANGO" (and design) [jeans, pants, jackets and t-shirts]	Micheli	No
9-23	EX	78212355	Merck KGAA	Walters Grendel* Walsh	2(d)	Refusal Reversed in both classes		"DUOPATH" [in Class 1: qualitative and quantitative assay products, namely, diagnostic reagents for scientific or research use in the filed of food hygiene; in Class 5: qualitative assays, namely, medical reagents for use in in-vitro-diagnostic procedures in human and veterinary medicine]	"DUOSET" [biological reagents for use in research applications to identify cytokines by immunoassay]	Fletcher	No
9-23	CANC (SJ)	92043109	Health Food Associates, Inc. v. Naturalife Eco Vite Laboratories, Inc.	Hairston Chapman Kuhlke [Opinion "By the Board" (Dunn)]	abandonment, nonuse, and fraud	Petition to Cancel Denied [Respondent's motion for summary judgment granted]		"PARAGON LABORATORIES" [dietary supplements]			No

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