

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

May 23-27, 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
5-23	EX	76454775	Beverly A. Dougherty	Hohein Bucher Drost*	2(e)(1)	Refusal Affirmed		"FINE LETTERS" [custom writing services]		Fickes	No
5-23	EX	76461663	Cash Systems, Inc.	Chapman Holtzman Drost*	whether applicant's specimens show trademark use of its mark on the goods recited in its application to register	Refusal Affirmed		"ALL-IN-1 ATM" [automated teller machine (ATM) facilitating credit and POS debit card advances]		Neville	No
5-24	OPP	91156142	Allergan, Inc. v. Solux Corporation	Seeherman Quinn Grendel*	2(d)	Opposition Dismissed	"BOTOX" [pharmaceutical preparations, namely, ophthalmic muscle relaxants; pharmaceutical preparations for the treatment of neurological disorders; pharmaceutical preparations for the treatment of muscle dystonias, smooth muscle disorders, autonomic nerve disorders, headaches, wrinkles hyperhydrosis, sports injuries, cerebral palsy, spasms, tremors and pain;	"LIPOTOX" [pharmaceutical preparations for the treatment of neurological disorders, muscle dystonias, smooth muscle disorders, autonomic nerve disorders, headaches, wrinkles, hyperhydrosis, sports injuries, cerebral palsy, spasms, tremors, and pain]			No

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

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5-24	OPP	91150539	Rivercat Foods, Inc. v. Sacramento River Cats Baseball Club, LLC	Hairston Chapman Grendel*	2(d); counterclaim to cancel asserting 2(d)	Opposition Dismissed; Petition to Cancel Denied	"RIVERCAT" [seafood, namely, smoked albacore, smoked sturgeon, chinook salmon, shrimp, lobster, salmon, oysters, clams, caviar, calamari, catfish, escargot, fish fillets and sardines; and deli meats, namely, ham, turkey, bologna, salami, hot dogs, hamburger, sausages, corned beef, chicken, liver, bacon, and deli sliced cheese]	"RIVER CATS" (in stylized design format) [clothing, namely, shirts, tee shirts, polo shirts, knit shirts, golf shirts, jackets, sweat shirts, sweaters, jerseys, v-neck pullovers, hats and visors]			No
5-25	EX	76404232	T.G. Lee Foods, Inc.	Hairston Bucher* Rogers	2(d); 2(e)(1)	Refusal Affirmed on 2(e)(1) grounds and on 2(d) grounds as to all cited registrations except FLAVOR FRESH for coffee servers		"FLAVOR FRESH BOTTLE!" [milk and dairy based liquids, namely, flavored milk, cream, whipping cream, half and half, coffee creamer, buttermilk, all sold in bottles]	<i>3 cited registrations, all owned by different entities:</i> "FLAVOR FRESH POUR SPOUT" [fitment applicators, namely, plastic screw top caps sold as a component of cardboard containers; non-dairy creamer and egg products, namely, egg substitutes]; "FLAVOR FRESH" [coffee servers]; "FLAVOR FRESH" [margarine]	Whittaker-Brown	No
5-25	EX	76399744	Poulsen Roser ApS	Hairston* Walters Holtzman	genericness (plant varietal)	Refusal Affirmed		"SHENANDOAH" [live roses and live clematis]		McCauley	No

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5-25	EX	78155921	HMS Motorsports LLC	Quinn Chapman Bucher*	2(d)	Refusal Affirmed in all three classes		<p>“48” (in stylized form) [in Class 16: a wide variety of motorsports racing souvenirs and memorabilia sold through specialized outlets featuring motorsports racing merchandise and paraphernalia, including trading cards, decals and stickers, art prints and posters; in Class 25: a wide variety of motorsports racing souvenirs and memorabilia sold through specialized outlets featuring motorsports racing merchandise and paraphernalia, including pants, shirts, caps, shoes, and jackets; in Class 28: a wide variety of motorsports racing souvenirs and memorabilia sold through specialized outlets featuring motorsports racing merchandise and paraphernalia, including miniature toy cars (made of various materials), hand-held units for playing electronic games, and a variety of other toys]</p>	<p>2 cited registrations, owned by different entities: “48” [playing cards] and “48 JEANS” [denim pants, denim shirts, knit shirts, t-shirts, baseball caps, footwear, and jackets]</p>	S.K. Lawrence	No

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5-25	EX	75858618	adp Gauselmann GmbH	Seeherman Hohein* Bucher	2(d)	Refusal Affirmed		"ISLAND" [coin-operated casino, entertainment and gambling apparatuses, and devices, namely, game machines, video game machines, slot machines, video slot machines, casino video slot machines, accounting computer software, electronic cards, poker machines, electronic backgammon and parts thereof]	"GOLD ISLAND" [gaming equipment, namely, slot machines and video slot machines with video output capability]	Chosid-Brown	No
5-25	EX	76233689	Kimmel & Silverman, P.C.	Quinn Hairston Rogers*	whether applicant's specimens show service mark use of the matter applicant seeks to register; 2(e)(1) [genericness]	Refusal Affirmed on both grounds		"LEMONLAW.COM" [legal services]		Zak	No
5-26	EX	75406111	Pearl River Chinese Products Emporium, Inc.	Seeherman Chapman Drost*	2(d)	Refusal Reversed		"PEARL RIVER" [retail department store services specializing in traditional Chinese goods]	"PEARL RIVERS" [mother of pearl jewelry]	Oh	No

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5-26	EX	76391912	Space Adventures, Ltd.	Quinn Holtzman Drost*	whether the mark shown in applicant's amended drawing is a material alteration of the mark as shown in the drawing originally filed with the application	Refusal Affirmed in all three classes		"SPACE ADVENTURES" (and design) [<i>in Class 9</i> : protective clothing, namely, suits for use in space travel, <i>etc.</i> ; training equipment, namely, air tight respiratory masks, protective helmets, <i>etc.</i> ; video cameras; and other goods; <i>in Class 16</i> : books and magazines in the field of space travel; posters; <i>in Class 25</i> : t-shirts, sweatshirts, pants, shorts]		Maciol	No
5-26	EX	75981699	L. Perrigo Company	Bucher Grendel* Holtzman	2(d)	Refusal Affirmed		"GOOD SENSE" [thermometers for medical purposes]	"A GOOD SENSE OF HEALTH" (in stylized form) [<i>various goods, including thermometers for medical purposes</i>]	Kovalsky	No
5-26	EX	78147137	Spirits Product International S.A.	Walters Chapman* Holtzman	2(d)	Refusal Affirmed		"SPT" [advertising and promotional services, namely, rendering advice to others regarding food and beverage advertising and sales promotion]	"SPT" (in stylized form) [market analysis services, namely, gathering and evaluating information relating to the development of market strategies for others]	Hella	No
5-26	OPP	91123898	Rutland Fire Clay Co. v. Joseph Enterprises and C.S.L.	Hanak Holtzman* Rogers	2(d)	Opposition Sustained	"CHIMNEY SWEEP" [repair, installation, and maintenance of stoves, fireplaces, and other heating systems; chemical powder used as a fire scale and soot/creosote eradicator]	"CHIMNEY SWEEPING LOG" [fireplace logs made of compressed wood fiber and being chemically treated]			No

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5-26	EX	78201297	Warrior Lacrosse, Inc.	Walters Grendel* Drost	2(d)	Refusal Affirmed		"TITAN PRO" [lacrosse sticks and lacrosse handles]	"TITAN" [ice hockey sticks]	Hughitt	No

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