

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD
January 31 – February 4, 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
2-1	EX	76463959	Lacretia R. Charlton	Hanak Hohein Drost*	2(e)(4)	Refusal Affirmed		"MARAJ" [entertainment and performing arts services in the nature of audio-visual performances, namely, live performances by a musical artist, dance performances and theater productions; and song writing services]		Ririe	No
2-1	EX	75558087	Menard, Inc.	Hairston Walters Drost*	2(d)	Refusal Affirmed		"COMMANDER" [doors, door panels, door frames, door casings and door units of metal sold exclusively through applicant's home improvement retail stores]	"WEATHER COMMANDER" [building materials, namely, non-metal doors]	McBride	No
2-1	EX	78175956	Harbro, LLC	Seeherman* Quinn Rogers	2(d)	Refusal Affirmed		"EXTREME WOODLAND" [hunting clothing and accessories, namely, headwear, hats, neckwarmers, rainwear, coats, jackets, vests, shirts, gloves, pants, belts, suspenders, underwear, footwear, socks, shoes and boots]	"XTREMELAND. COM" [wearing apparel, namely, pants, shirts, hats, neckties, coats, gloves, footwear, swimwear, belts, scarves, and wristbands]	Blandu	No
2-1	EX	76238639	Mama Sita's Holding Co., Inc.	Quinn Walters Bucher*	2(d)	Refusal Affirmed in both classes of goods		"MAMA SITA'S" (and a design incorporating a portrait and the words "MAMA SITA") [<i>in Class 29</i> : fruit preserves and coconut milk; <i>in Class 30</i> : frozen confections, ice cream, frozen fruit, frozen vegetables, frozen yogurt, frozen meats, frozen poultry, and frozen seafood]	"MAMACITA" [vegetable-based seasonings, namely, recaito and sofrito]	DuBois	No

(1) EX=Ex Parte Appeal; OPP=Opposition; CANC=Cancellation; CU=Concurrent Use; (SJ)=Summary Judgment; (MD)=Motion to Dismiss; (MR)=Motion to Reopen; (R)=Request for Reconsideration (2) *=Opinion Writer; (D)=Dissenting Panel Member

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD
January 31 – February 4, 2005 (continued)

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
2-1	EX	76412719	Nidek Co., Ltd.	Seeherman Bucher* Drost	2(e)(1)	Refusal Affirmed		"OPD-Scan" [ophthalmic equipment, namely, refractive error and corneal aberration analyzer]		Powers	No
2-2	EX	76131965	Ambu Inc.	Quinn Chapman Rogers*	2(d)	Refusal Affirmed		"RES-CUE PUMP" [medical apparatus, namely, portable resuscitation pump]	"RESQ-PUMP" [medical device, namely, suction pump for cardiac compression and decompression for use in CPR]	Case	No
2-3	CANC	92043657	Anderson-L'Cartier, Inc. v. George G. Speer, III	Seeherman Quinn Bucher [Opinion "By the Board" (Skoro)]	claim preclusion [2(d)]	Petition to Cancel Denied (Respondent's motion for summary judgment granted)	"THE CLEANSE THYSELF PROGRAM" [healthcare counseling and planning utilizing herbal, nutritional, mineral and dietary supplements to aid in the removal of toxins and waste material produced in the body]	"CLEANSE AND PURIFY.COM" (and design) [on-line retail store services featuring dietary supplements, vitamins, mineral and herbal supplements]			No
2-4	EX	78193899	University of South Florida	Hanak* Quinn Bottorff	2(d)	Refusal Affirmed as to both cited registrations		"USF" [educational services, namely, providing courses of instruction for others at the university level]	2 cited registrations, both owned by the same entity: "USF" (in stylized form) and "USF UNIVERSITY OF SAN FRANCISCO" (in stylized form) [both marks for, inter alia, providing (or conducting) courses of instruction at the university level]	Maciol	No

(1) EX=Ex Parte Appeal; OPP=Opposition; CANC=Cancellation; CU=Concurrent Use; (SJ)=Summary Judgment; (MD)=Motion to Dismiss; (MR)=Motion to Reopen; (R)=Request for Reconsideration

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

**SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD
January 31 – February 4, 2005 (continued)**

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
2-4	EX (R)	75602873	Joanne Slokevage	Seeherman Quinn Bucher*	whether the matter asserted for registration has acquired distinctiveness as a trademark for applicant's goods	Request for Reconsideration Denied (Refusal Affirmed, but refusal will be set aside upon submission of disclaimer of the "holes and flaps configuration" portion of mark)		<i>mark described by applicant as:</i> "a configuration located on the rear hips comprised of: a label in the center with the words FLASH DARE! on a v-shaped background; and on each of the two sides of it there is a clothing feature (a cut-out area, or hole, and flap affixed to seat area with a closure device); the top borders of the "holes" also forming and continuing the "vee" shape]		Lee	No
2-4	EX	76499359	Light Speed Laser Health Care and Skin Spa, Inc.	Hanak* Holtzman Rogers	2(d)	Refusal Affirmed		"BLUE" (in stylized format) [health spa services, namely, cosmetic body care services, cosmetic electrolysis]	"BLUE DOOR" [professional medical services in the field of plastic, cosmetic and reconstructive surgery; spa services providing body and skin treatments, namely, massages, applications of lotions and compositions including skin lighteners, skin masks, antioxidant treatments, skin peels, and salt scrubs]	DuBois	No

(1) EX=Ex Parte Appeal; OPP=Opposition; CANC=Cancellation; CU=Concurrent Use; (SJ)=Summary Judgment; (MD)=Motion to Dismiss; (MR)=Motion to Reopen; (R)=Request for Reconsideration
(2) *=Opinion Writer; (D)=Dissenting Panel Member

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD
January 31 – February 4, 2005 (continued)

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
2-4	EX	78155909	Bank Mutual Corp.	Chapman Holtzman* Drost	2(e)(1)	Refusal Affirmed		"BANKMUTUAL" [banking services; brokerage services in the fields of annuities, insurance and mutual funds]		Thompson	No
2-4	OPP	91124078	TruServ Corp. v. Advanced Impact Marketing Service, LLC	Hohein* Walters Holtzman	2(d)	Opposition Sustained as to both classes of services	"GREEN THUMB" [<i>a variety of hand operated gardening tools</i> ; liquid wax-like preparation for application to plant foliage as resistant to the effect of dust condensation and contributive to improving general foliage color and appearance...soil testing reagents to determine soil acidity and presence of nitrogen, phosphorus, and potash elements in soil samples; trellises for supporting plants and vines; kits for growing plants, <i>etc.</i> ; lawn sprinklers; all types of shrubs, trees, plants and nursery products, <i>etc.</i>]	"GREEN THUMB CLUB" [<i>in Class 38</i> : providing on-line chat rooms for transmission of messages among computer users concerning gardening; <i>in Class 42</i> : gardening club; providing gardening information via an on-line electronic communications network]			No

(1) EX=Ex Parte Appeal; OPP=Opposition; CANC=Cancellation; CU=Concurrent Use; (SJ)=Summary Judgment; (MD)=Motion to Dismiss; (MR)=Motion to Reopen; (R)=Request for Reconsideration

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