

**SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD**  
**September 11-15, 2006**

| 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 |
|-------------|-----------------|-------------------------|-------------------------------|----------------------------|--|--|--|--|--|--------------------|------------------------------|
| 9-11        | EX              | 78431260                | Massi                         | Quinn; Hairston*; Walsh    | 2(d)   | Refusal Affirmed in both classes   |  | "MIELE" [in Class 25: clothing, namely, jackets, sweaters, vests, sweat shirts, sweat suits, jogging suits, shirts, skorts, dresses, hats, and footwear, namely, shoes, pumps, sandals, sneakers, and boots; in Class 35: retail clothing boutiques] | "CARLOS MIELE" [clothing, namely, sweaters, shirts, t-shirts, jackets, dresses, skirts, jogging suits, sweat suits; footwear, namely, pumps, sandals, sneakers, boots, shoes; hats; and a number of other goods] | Finnegan           | No                           |
| 9-11        | EX<br>EX        | 76589185;<br>76589186   | Oxford Global Resources, Inc. | Seeherman*; Zervas; Walsh  | 2(d)<br>[Note: The examining attorney did not refuse registration of applicant's marks for its services in Class 42] | Refusal Affirmed [Applicant's marks will be published for its services in Class 42 only] |  | "OXFORD INTERNATIONAL" and "OXFORD & ASSOCIATES" [both marks for: in Class 35: recruiting and placement services for temporary employees, permanent employees and consultants on a domestic and international scale; and services in Class 42]       | "OXFORD LEGAL ASSOCIATES" (and design) [temporary employment and job placement services]   | French             | No                           |
| 9-11        | EX              | 76414272                | Hotels.com, L.P.              | Walters; Holtzman; Rogers* | Section 6 disclaimer requirement (of HOTELS.COM)   | Refusal Affirmed   |  | "HOTELS.COM" (and design) [providing information for others about temporary lodging; travel agency services, namely, making reservations and bookings for temporary lodging for others by means of telephone and the global computer network]        |  | Eulin              | No                           |

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| 9-11        | EX              | 76579569                | Hop-On Wireless, Inc.                                | Quinn; Holtzman; Kuhlke*     | 2(d)  | Refusal Affirmed                            |  | "CELL THONG" [wearable carriers for portable electronic devices, namely, cellular phones, MP3 players, PDAs, handheld electronic video game units] | "PHONE THONG" [wearable holders for portable electronic devices, namely, cellular phones, MP3 players, portable electronic game consoles, PDAs, cameras, global positioning systems, and flashlights] | Collins            | No                           |
| 9-11        | OPP             | 91161517                | Hola, S.A. v. Freedom Broadcasting of Michigan, Inc. | Seeherman; Walters*; Grendel | 2(d)  | Opposition Dismissed                        | "HELLO!" (and design) [newspapers for general circulation, fiction books, and general feature magazines; telecommunication services, namely, personal communication services] and "¡HOLA!" (and design) [newspapers for general circulation, books about current events and general interest, and general feature magazines] | "HELLO WEST MICHIGAN" [television broadcasting]  |   |                    | No                           |
| 9-12        | CANC            | 92030908                | Goya Foods, Inc. v. Holland Coffee, Inc.             | Quinn*; Rogers; Zervas       | 2(d); 2(e)(2) and lack of acquired distinctiveness; genericness | Opposition Sustained (on 2(d) grounds only) | "GOYA" [a variety of food and beverage products, including coffee]   | "GAYO MOUNTAIN COFFEE" [coffee beans]  |   |                    | No                           |

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| 9-12        | EX              | 78040702                | Parametric Technology Corporation | Walters*;<br>Rogers;<br>Cataldo | whether applicant's mark is registrable on the Supplemental Register (genericness) | Refusal Affirmed as to Class 42;<br>Refusal Reversed as to Class 9<br>[ <i>Note: Refusal to register was withdrawn as to Class 41.</i> ] |  | "THE PRODUCT DEVELOPMENT COMPANY" [ <i>in Class 9: computer software for computer aided design (CAD), computer aided manufacturing (CAM) and computer aided engineering (CAE), computer software for workflow, process and production automation, computer software for visualization and digital mockup, computer software for use in software development, and other services; in Class 41: computer education training services, namely, training and education services in the field of computer software; in Class 42: technical support services, namely, troubleshooting of computer software problems via telephone; updating of computer software; maintenance of computer software, namely, maintenance and error correction services for computer software; computer consultation; product development for others; repair of computer software</i> ] |  | Milton             | No                           |

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| 9-12        | EX              | 78536363                | National Affinity Group, LLC                   | Seeherman*; Quinn; Hairston | 2(d)  | Refusal Affirmed as to both cited registrations       | "AFFINITY GROUP THE RESOURCEFUL BUSINESS PARTNERS" (and design incorporating a stylized letter "A") [professional services, namely, employment hiring, recruiting, placement, staffing and career networking services; business project management; business management consultation; business consulting services relating to distribution solutions] | 2 cited registrations, both owned by the same entity: "AFFINITY" and "AFFINITY" (in stylized lettering) [both marks for: business consulting services; procurement services, namely, purchasing computer software, telephone services [or long distance telephone services], bill paying services, inventory management services, and Internet connectivity services for others; retail store services in the field of office supplies, computer software, and business products; operation of businesses for others, namely, on-in retail stores in a wide variety of fields] |   | Kloiber            | No                           |
| 9-12        | OPP             | 91159338                | Giocar America, Inc. v. Braking Italia, s.r.l. | Hairston*; Bucher; Grendel  | 2(d)  | Opposition Sustained                                  | "WAVE" [brake rotors for vehicles]   | "WAVE" [brake discs for land vehicles]   |   |                    | No                           |
| 9-13        | EX (R)          | 78114391                | Robert Ameet                                   | Hairston; Rogers*; Zervas   | 2(d)  | Request for Reconsideration Denied (Refusal Affirmed) |  | "FASTRAK" [tracking services for retrieval of encoded products, excluding railcars in transit]   | "FAST-TRAX" [services for computerized tracking and tracing of railcars in transit] | Ellis              | No                           |

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| 9-13        | OPP (MD)        | 91169211                | Michael J. McDermott v. San Francisco Women's Motorcycle Contingent | Seeherman; Holtzman; Walsh [Opinion "By the Board" (Lykos)] | whether opposer has standing to oppose under Section 2(a) [disparagement; immoral or scandalous matter] | Opposition Dismissed [applicant's motion to dismiss granted] |  | "DYKES ON BIKES" [education and entertainment services in the nature of organizing, conducting, and promoting parade contingents, community festivals, events, street fairs, forums, seminars, parties, and rallies to support, organize and motivate women motorcyclists everywhere to do the same, thereby fostering pride in a wide variety of sexual orientations and identities, namely, lesbian, bisexual, and transgender] |  |                    | Yes                          |
| 9-13        | EX              | 78211492                | Conversive, Inc.  | Quinn; Walters*; Cataldo                                    | 2(e)(1)   | Refusal Affirmed   |  | "SEARCHAGENT" [computer programs, namely, an interactive natural language processing knowledge base used to build and customize interactive conversational mechanisms in the form of an animated or virtual character, which assist, answer questions and provide information to users of web sites, for use in real-time Internet relay communications platforms]  |  | Fairbanks          | No                           |

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| 9-13        | EX              | 78271634                | Quinn                  | Hohein;<br>Grendel;<br>Zervas*      | 2(e)(2)   | Refusal Affirmed in all three classes  |  | "NEW YORK CURRANTS" [ <i>in Class 29</i> : currant based snack products and processed, canned, dried and preserved currants; <i>in Class 31</i> : unprocessed, raw or fresh currants; <i>in Class 32</i> : beverages, namely, currant juice and currant flavored soft drinks] |  | Butler             | No                           |
| 9-13        | EX              | 78392555                | Absorption Corporation | Walters;<br>Bucher;<br>Zervas*      | 2(d)  | Refusal Affirmed as to both cited registrations  |  | "HEALTHY PET" [animal litter]   | 2 cited registrations, owned by different entities:<br>"HEALTHY PET" [vitamins, minerals and other food supplements for pet animals] and "HEALTHYPETS" [retail shops featuring health supplies for pets] | Pino               | No                           |
| 9-13        | EX              | 76603668                | Deutsche Telekom AG    | Seeherman*;<br>Grendel;<br>Holtzman | 2(e)(1)<br>[ <i>Note: The examining attorney did not enter a refusal as to some of the goods in Class 16.</i> ] | Refusal Affirmed in all six classes<br>[ <i>Note: Mark will be published for opposition as to certain goods in Class 16.</i> ] |  | "MOBILE WALLET" [multi-page list of goods and services in Classes 9, 16, 35, 36, 38, and 42]  |  | Sparacino          | No                           |

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| 9-13        | OPP (SJ)        | 91156299                | Time Warner Entertainment Company, L.P. v. Roger Campo, Julio Calderon and Luz Bediale | Holtzman; Kuhlke; Cataldo [Opinion "By the Board" (Taylor)] | 2(d); dilution   | Opposition Sustained (Opposer's motion for summary judgment granted) | "HARRY POTTER" [ <i>a wide variety of goods and services, including: entertainment services in the nature of a live-action comedy, drama, and/or animation TV programs and production of same; live-action comedy, drama and/or animated motion picture theatrical films and production of same; providing information for an actual entertainment via an electronic global computer network in the nature of a live-action, comedy, drama and/or animated TV programs; production of comedic and musical recordings]</i> | "HARRY POTHEAD" [entertainment services in the nature of a live-action comedy, drama and/or animation TV programs and production of same; live-action comedy, drama and/or animated motion picture theatrical films and production of same; theatrical performances both animated and live action; providing information for an actual entertainment via an electronic global computer network in the nature of a live-action, comedy, drama and/or animated TV programs; production of comedic and musical recordings] |  |                    | No                           |
| 9-14        | EX              | 76291030                | L.VAD Technology, Inc.   | Walters; Walsh; Cataldo*                                    | genericness (whether applicant's mark is registrable on the Supplemental Register) | Refusal Affirmed   |   | "PERMANENT BALLOON PUMP" [medical and surgical procedure products, namely, permanent implantable, left ventricular assist devices and permanent intra-aortic balloon pumps and parts therefor, namely a blood pump, skin connector and drive unit]  |  | Kim                | No                           |

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| 9-14        | OPP             | 91162564                | DC Shoes, Inc. v. John Melnick           | Quinn; Grendel*; Cataldo   | 2(d) [priority]; dilution   | Opposition Dismissed as to all eleven classes  | "DC" [a wide range of goods and services]            | "DC N ME" [various goods and services in Classes 6, 14, 16, 18, 21, 24, 25, 28, 35, 41 and 42]   |   |                    | No                           |
| 9-14        | EX              | 76588517                | Advanced Neuro-modulation Systems, Inc.  | Quinn; Hairston; Bucher*   | 2(e)(1)   | Refusal Reversed   |  | "ULTRACATH" [catheters]  |   | Mizelle-Howard     | No                           |
| 9-14        | EX              | 76330764                | Fabrica de Jabon La Corona, S.A. de C.V. | Seeherman; Walters*; Drost | 2(d)  | Refusal Affirmed   |  | "MONARCA PURE CORN OIL" (and design) [corn oil]  | 2 cited registrations, both owned by the same entity: "MONARCH" and "MONARCH" (and design) [both marks for: butter] | Delaney            | No                           |
| 9-15        | EX              | 78360389                | Xcaliber International Ltd., L.L.C.      | Walters; Rogers*; Zervas   | 2(e)(4)   | Refusal Affirmed   |  | "CHISOLM" [smokeless tobacco]  |   | Yard               | No                           |
| 9-15        | EX<br>EX        | 76535857;<br>78341612   | Buzz Off Insect Shield, LLC              | Hohein; Hairston; Walsh*   | 2(d) [Note: The examining attorney did not refuse registration of BUZZ OFF INSECT SHIELD as to the goods in Classes 12, 18, 20, 22, 24, 27 and 28.] | Refusal Affirmed in both cases [Note: The mark BUZZ OFF INSECT SHIELD will be published for opposition in Classes 12, 18, 20, 22, 24 27 and 28.] |  | "BUZZ OFF INSECT SHIELD" [a variety of clothing and footwear, including men's and boys' shirts] and "BUZZ OFF" [a variety of garments, including shirts] | "BUZZ-OFF BY VANDERBILT" [men's and boys' knit shirts]  | Griffin            | No                           |

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| 9-15        | EX              | 78606842                | Faith Publishing Service  | Grendel; Drost; Kuhlke*   | 2(d)   | Refusal Affirmed as to all 3 cited registrations |  | "FAITH" (in stylized lower case lettering) [general interest magazine]  | 3 cited registrations, all owned by the same entity:<br>"FAITH" (integrated with a design) [mail order services in the field of books, records, and cassettes of a religious nature];<br>"FAITH" (integrated with a design and contained within a rectangle) [religious magazines]; mark incorporating the words "FAITH LIBRARY PUBLICATIONS" and the word "FAITH" (integrated with a design) [religious books and magazines, pamphlets, brochures, newsletters, and catalogs] | Mahmoudi           | No                           |
| 9-15        | EX              | 75701344                | National Council for Therapeutic Recreation Certification, Inc. | Hohein; Hairston*; Zervas | genericness; whether, if not generic, applicant's mark has acquired distinctiveness under Section 2(f) | Refusal Reversed on both grounds                 |  | "CERTIFIED THERAPEUTIC RECREATION SPECIALIST" [certification mark for meeting certifier's standards of competence in the field of recreational therapy and recreational therapy counseling] |  | Levy               | No                           |

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| 9-15        | EX              | 78157550                | Piano Factory Group Inc. | Hohein*; Hairston; Walsh | 2(e)(4) | Refusal Affirmed |  | "VOSE & SONS" [pianos, namely, upright pianos, grand pianos, and digital pianos; piano keyboard instruments] |  | Belenker           | No                           |

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