

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

August 14-18, 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
8-14	EX	78318677	Cash Flow Solutions, Inc.	Rogers Kuhlke* Cataldo	2(e)(1); whether applicant's mark is registrable under 2(f)	Refusal Affirmed on both grounds		"CASH FLOW SOLUTIONS" [check verification and collection services]		Estrada	No
8-14	EX	78363393	Gravel Conveyors, Inc.	Hohein Bucher* Holtzman	2(e)(1)	Refusal Affirmed		"GRAVEL SHOOTER" [mobile hydraulic conveyors for dispensing aggregate and particulate materials at a job site]		Carlyle	No
8-14	OPP	91157453	Atrium Medical Corporation v. Atrium Biotechnologies, Inc.	Quinn Kuhlke* Walsh	2(d)	Opposition Dismissed	"ATRIUM" [a wide range of medical products, biomaterials and devices, including products and devices that are used in cardiology, general and cardiovascular surgery, and cosmetic surgery and biomaterials of polytetrafluoroethylene]	"ATRIUM BIOTECHNOLOGIES" [<i>in Class 1</i> : active ingredients for use in the manufacture of cosmetics and skin care products, namely, natural matrix metalloprotease inhibitors, natural protein extracts and natural protein concentrates; active ingredients for use in the manufacture of nutritional supplements, namely, liquid cartilage extracts; <i>in Class 5</i> : nutritional supplements made from shark cartilage extracts, animal extracts and plant extracts, not for medical use]			No

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8-15	EX	76557930	DSS Environmental, Inc.	Hairston Grendel* Drost	genericness [whether applicant's mark is registrable on the Supplemental Register]	Refusal Affirmed		"DUALSAND" [water and wastewater filters]		Park	No
8-15	EX	76593831	National Sales and Supply, LLC	Seeherman* Quinn Hohein	2(d)	Refusal Affirmed as to both cited registrations		"MAJESTIC MELT" [rubber mulch product, namely, mulch made of recycled rubber for use in landscaping and horticulture applications]	2 cited registrations, both owned by the same entity: "MAJESTIC EARTH" [potting soil and fertilizer for domestic use; peat moss] and "MAJESTIC EARTH" (and design) [potting soil; peat moss and seeded flower and lawn rolls]	Morris	No
8-16	EX	76495632	Wal-Mart Stores, Inc.	Hairston Grendel* Cataldo	2(e)(1)	Refusal Affirmed in both classes		"EXPERT GARDENER" [in Class 21: watering devices, namely, hose-in-sprayers; in Class 31: grass seed]		Kline	No
8-16	EX	76562232	L-7 Designs, Inc.	Hohein* Hairston Holtzman	2(e)(1)	Refusal Affirmed		"HANDMADE MODERN" [kits for making furniture comprised primarily of unfinished or finished wood; metal composites or metal pieces; and foam, plastic, fabric or self stick veneers, namely, kits for making tables, kits for making table tops and kits for making bookshelves]		Front	No

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8-16	EX	76438049	Cerner Corporation	Bucher* Drost Cataldo	2(e)(1)	Refusal Affirmed		"CLINICALLY DRIVEN RESOURCE PLANNING" [computer software for use in the healthcare field, namely, software for managing, storing, analyzing, maintaining, processing, structuring, reviewing, building, editing, distributing, communicating, organizing, sharing, referencing, monitoring and integrating healthcare related information; computer software for automating healthcare processes, namely, resource management]		Turner	No
8-16	OPP	91159099	Alliance Technical Services, Inc. v. Alliance Machine Systems International, Inc.	Quinn* Hairston Kuhlke	2(d)	Opposition Dismissed	"ALLIANCE" and "ALLIANCE TECHNICAL SERVICES INC." [software for use in a variety of applications in the corrugated paper industry, and for repair and maintenance services performed on machines in the corrugated paper industry]	"ALLIANCE" (and design) [material handling products for the paperboard packaging and corrugated industries, namely, folder/glue, stackers, pre-feeders, loaders, conveyors, and bundle-handlers]			No
8-17	OPP	91162188	Winsor Grain, Inc. v. Turf-Seed, Inc.	Bucher Holtzman* Cataldo	2(d)	Opposition Dismissed	"CALIFORNIA GOLD" [agricultural seeds]	"CALIFORNIA GOLD" [grass seed]			No

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8-17	CANC (R)— Second Request for Reconsideration	92042503	Emerald Bio-agriculture Corporation v. Biosafe Systems, LLC	Bucher Drost* Kuhlke	2(d)	Second Request for Reconsideration Denied (Petition to Cancel Granted)	“AUXIGRO” [fertilizers, namely, organic acids that increase plant growth and yield for agricultural or domestic use]	“OXYGROW” [chemical compositions for treating soil to enhance growth of agricultural and horticultural products]			No
8-17	OPP	91156584	Ford Motor Company v. Plaza Automotores, S.A. de C.V.	Rogers Drost* Walsh	2(d)	Opposition Sustained	“MERCURY” [passenger and commercial automobiles]; “MERCURY COMMITMENT” [automotive services, namely, emergency roadside repair services, and repair and maintenance of motor vehicles]; “MERCURY OWNER ADVANTAGE” [promoting the sale of goods and services of auto dealerships online, through distribution of printed materials, audio and video tapes, TV and radio broadcasts, and promotional contests, and through administration of customer loyalty programs]	“MERKAUTO” (and design) [dealerships in the field of new and used automobiles]			No

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8-17	EX	78199415	eMark-monitor Inc.	Quinn Hohein Zervas*	2(e)(1)	Refusal Affirmed		"EARLY WARNING SYSTEM" [electronic monitoring services in the field of domain name registration, where brand owners are notified of a potential infringing domain name registration via electronic mail]		Wilke	No
8-17	EX	78367114	Sinpo Corp.	Bucher Zervas Kuhlke*	2(d)	Refusal Reversed		"GINGER CAFE" [restaurants featuring Asian cuisine]	"JINJA" [restaurants serving food and beverages]	Bradley	No
8-17	EX	78234429	HBI International	Quinn* Grendel Zervas	2(d)	Refusal Affirmed		"ROLLIES" [cigarettes, cigarette tobacco, and cigarette rolling paper]	"ROLY" [tobacco, namely, cigars]	Ludlow	No
8-17	EX EX	78240383 78240385	Conversive, Inc.	Seeherman Rogers Drost*	2(e)(1)	Refusal Affirmed in both cases		"ASSISTED RESPONSE AGENT" and "ASSISTED RESPONSE" [both marks for 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]		Estrada	No

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8-17	EX EX	78404542 78404543	Merrell Pharmaceuticals Inc.	Seeherman* Hairston Cataldo	Section 6 disclaimer requirement (of FIBER-SHAKE) [as to 78404542]; 2(e)(1) [as to 78404543]	Refusal Affirmed in both cases		"CITRUCEL FIBERSHAKE" and "FIBERSHAKE" [both marks for laxatives and fiber dietary supplements]		Lewis	No
8-17	EX	78456701	ITT Industries, Inc.	Hohein Drost* Kuhlke	whether applicant's specimens show trademark use of the mark it seeks to register [mutilation]	Refusal Reversed		"K-PATH" (and design) [computer software for controlling single and multiple vehicles using information from the GPS constellation for navigation]		Burns	No
8-17	EX	78342465	Ownit Mortgage Solutions, Inc.	Grendel Walsh* Cataldo	2(d)	Refusal Affirmed as to both cited registrations		"RightLoan" [mortgage banking]	2 cited registrations, owned by different entities: "THE RIGHT LOAN, ALWAYS" [providing mortgage loan brokerage services and loans] and "THE RIGHT LOAN @ THE RIGHT PRICE" [real estate 1 st and 2 nd trust deed, home equity loan, and debt consolidation loan brokering]	Foster	No

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8-18	EX	76515273	Bose Corporation	Bucher Grendel Walsh*	whether applicant's specimens show trademark use of its mark	Refusal Reversed		"ADAPTISENSE" [headphones]		LaMothe	No
8-18	EX	78369241	Rodale Inc.	Bucher Grendel* Holtzman	genericness (whether applicant's mark is registrable on the Supplemental Register)	Refusal Affirmed		"HEALTH BULLETIN" [providing information in the field of fitness, exercise and lifestyle]		Saunders	No

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