

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

March 20-24, 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 |
|-------------|-----------------|-------------------------|---------------------------|------------------------|-------|------------------|--|---|--|--------------------|------------------------------|
| 3-20 | EX | 78216470 | Viacom International Inc. | Quinn Hohein Holtzman* | 2(d) | Refusal Affirmed | | “IT’S WHAT’S INSIDE THAT COUNTS” [video game machines for use with TV, audio output game machines for use with TV, video game cartridges, video games recorded on CD-ROM for use in freestanding video game machines; and computer products, namely, game cartridges for computer video games and video output machines for use with TV and instructional materials sold as a unit, computer game cassettes, computer game tapes and manuals sold as a unit; theatrical and musical sound recordings; theatrical and musical video recordings, laser discs and digital video discs, namely, digital versatile discs and DVD; sunglasses, all of which are to be marketed in connection with the EVERGIRL line of products which is directed to children, pre-teens, and teens and emphasizes the concept of self-empowerment and a positive self-image] | “WHAT’S INSIDE COUNTS” [in Class 41: multimedia entertainment software production services; audio and video recording and production; in Class 42: computer services, namely, designing and implementing network web pages for others, design of computer software and multimedia games] | Cain | No |

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

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| 3-21 | OPP | 91160978 | Perfect Foods, Inc. v. John D. Gullahorn | Hohein Hairston Kuhlke* | 2(d) | Opposition Dismissed | "COOL CAT WHEATGRASS PET TREAT" [fresh vegetables, particularly for use as a pet treat, namely, natural wheatgrass] | "COOL CAT PRODUCTS" (and design) [cat collars and cat clothes] | | | No |
| 3-21 | OPP OPP (SJ) | 91161633 91161648 | Hera, LLC v. EC&C Technologies, Inc. | Hohein Walters Walsh [Opinion "By the Board" (Skoro)] | 2(d) [priority] | Opposition Dismissed in both cases [applicant's motion for summary judgment granted] | "AOD" and "AMMONIA ON DEMAND" [both marks for systems for producing ammonia on site comprised of urea feed stock hydrolyzers in the form of chambers that provide a chemical reaction resulting in the formation of ammonia to assist in various processes for controlling air pollution from the burning of fossil fuel in electrical power production facilities] | "AOD" and "AMMONIA ON DEMAND" [both marks for systems for producing ammonia on site consisting of urea feed stock hydrolyzers in the nature of chambers that provide a chemical reaction resulting in the decomposition of the urea for use in producing ammonia to assist in various processes for controlling air pollution from the burning of fossil fuel in electrical power production facilities] | | | No |
| 3-22 | CANC (SJ) | 92042937 | Sysco Corporation v. Princess Paper, Inc. | Hohein Hairston Zervas [Opinion "By the Board" (Lykos)] | 2(d) | Petition to Cancel Granted (petitioner's cross-motion for summary judgment granted) | "IMPERIAL" [paper products, namely, napkins, facial tissue, bathroom tissue, paper towels; and other goods] | "IMPERIAL" [paper products, namely, napkins, facial tissue, bathroom tissue, paper towels] | | | No |

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| 3-22 | EX | 76383240 | Veeco Instruments, Inc. | Walters* Bucher (D) Zervas | 2(e)(1); genericness; whether, if not generic, applicant's mark has acquired distinctiveness and is, thus, registrable under Section 2(f) | Refusal Reversed [while mark is merely descriptive, it is not generic; and it has acquired distinctiveness under Section 2(f)] | | "DIGITAL INSTRUMENTS" [scientific and technological research and development of products for others, namely, atomic force microscopes and scanning tunneling microscopes, in the field of metrology] | | Loughran | No |
| 3-23 | OPP | 91154648 | Jacques Moret, Inc. v. Wilson Bright | Seeherman* Quinn Walters | 2(d) | Opposition Sustained | "DRY F-X" [workout apparel, including leggings, sports bras, exercise tops, and shorts; and the fabric incorporated therein] | "DRY-X" [waterproof fabric for the further manufacture of clothing] | | | No |
| 3-23 | EX | 76161777 | Hypercom Corporation | Quinn Hohein Kuhlke* | 2(d) | Refusal Affirmed | | "FASTCOM" [external modems for use with point-of-sale terminal systems] | "FASTCOM" [computer circuit boards and instructional manuals sold therewith] | Kearney | No |
| 3-23 | EX | 78220970 | Home Loan Center, Inc. | Bucher Rogers Kuhlke* | 2(e)(1) | Refusal Affirmed | | "HOMELOANCENTER.COM" [financial services, namely, providing information about real estate loan products and consulting assistance in obtaining real estate loan products] | | Sonneborn | No |

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| 3-23 | EX | 76534929 | Elite Confectionery Ltd. | Hairston* Drost Walsh | 2(d) | Refusal Affirmed | | "MAX BRENNER" [restaurant, bar, cafeteria, and café services] | "BRENNER'S" [restaurant services] | Elton | No |
| 3-23 | CANC (SJ) | 92043995 | Quest Capital Management, Inc. v. National Home Buyers Assistance, L.L.P. | Holtzman Drost Zervas [Opinion "By the Board" (Butler)] | 2(d); affirmative defense of abandonment | Petition to Cancel Granted (petitioner's motion for summary judgment granted) as to registrations for NHBA (and design) and NHBA; Petitioner's motion for summary judgment denied as to registration for NATIONAL HOME BUYERS ASSISTANCE | "NATIONAL HOME BUYERS ALLIANCE," "NHBA," and "NHBA" (and design) [all three marks for professional services, namely, providing mortgage services, including lease-to-own services, real estate services, and credit repair services] | "NHBA" (and design) and "NHBA" [both marks for providing 'lease to own' programs to individuals to encourage home ownership] "NATIONAL HOME BUYERS ASSISTANCE" [financial services, namely, lease-to-own loan services to create affordable home ownership opportunities for prospective home buyers; financial consultation services in connection with prospective home ownership, namely, providing information to prospective home buyers concerning lease-to-own home loan programs] | | | No |

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| 3-24 | EX | 78293275 | Henkel S.P.A. | Walters Rogers Drost* | 2(d) | Refusal Affirmed as to both cited registrations | | "MORRIS" [shoes, slippers and boots; clothing, namely, tuxedos, suits, waistcoats, jackets, trousers, skirts, shirts, blouses, coats, overcoats, raincoats, t-shirts, sweaters, polo neck and button-neck sweaters, cardigans, shorts, blue-jeans, anoraks; neckties, foulards, scarves; belts; hats, caps; articles of clothing made of leather, namely, jackets, trousers, overcoats, waistcoats all aforementioned goods not used in connection with golf or golf-related apparel; gloves, excluding hunting gloves and golf gloves] | 2 cited registrations, owned by different entities: "TOM MORRIS" [clothing, namely, shirts, sweaters, vests, suits, pants, hats, socks, shoes, belts, wristbands, ties, gloves, rainwear, scarves, and shawls] and "MORRIS FEEL GLOVES" [woolen and cotton hunting gloves] | Stoides | No |
| 3-24 | EX | 78228227 | Microsoft Corporation | Hairston* Rogers Zervas | 2(d) | Refusal Affirmed | | "KAMEO" [a wide variety of toys and games, all sold to promote videogames and videogame characters, including: toy action figures and hand-held units for playing electronic games] | "CAMEO" [equipment sold as a unit for playing a board game] | Gaskins | No |

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