

**SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD**  
**September 25-29, 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
9-25	EX	76022292	Aladdin's Eatery, Inc.	Grendel*; Holtzman; Walsh	2(d)	Refusal Affirmed as to all 3 cited registrations		"ALADDIN'S EATERY" (and design) [restaurants featuring Middle Eastern cuisine, provided in small, neighborhood or local restaurant establishments having no additional services offered concurrent therewith]	3 cited registrations, all owned by the same entity: "ALADDIN" [hotel and restaurant services]; "ALADDIN" and "ALADDIN" (and design) [both marks for: resort, hotel, restaurant, bar, lounge services; beauty salon and health spa services]	Hammel	No
9-26	EX	78451347	Citizens Financial Group, Inc.	Walters; Drost; Walsh*	2(d)	Refusal Reversed		"CITIZENS CIRCLE GOLD ACCOUNT" [banking services]	"GOLD ACCOUNT" [banking services]	R. McMorrow	No
9-26	EX	76361399	Homeland Vinyl Products, Inc.	Hohein; Grendel; Holtzman*	2(d)	Refusal Reversed		configuration of applicant's goods [non-metal fence rails]	configuration of the bottom portion of applicant's goods [non-metal fence rails]	Stine	Yes
9-26	OPP	91160771	Robert Kaufhold v. Robert P. Yeomans	Seeherman; Rogers; Drost*	2(d)	Opposition Sustained	"THE UNDEAD" [entertainment services in the nature of musical performances]	"THE UNDEAD" [entertainment services, namely, live performances by a musical band]			No
9-26	EX	76619365	Fino Classic Inc.	Hohein; Holtzman*; Cataldo	2(d)	Refusal Affirmed		"FINO CLOTHING" [t-shirts and denim jeans for males and females]	"F.I.N.O." [a variety of men's, women's, and children's clothing, including: t-shirts and jeans]	Malik	No

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9-26	EX EX	76525244 76525481	Toshiba America Business Solutions, Inc.	Bucher; Rogers*; Cataldo	2(d)	Refusal Affirmed in both cases		“ENCOMPASS” [computer software, namely, software and programs in the field of quantitative and qualitative document management for businesses, specifically, software and programs for analysis of document imaging, management and output device requirements to improve document management and output document functionality and reliability] <i>and</i> [computer services, namely, providing temporary use of on-line nondownloadable computer software and computer programs in the field of quantitative and qualitative document management for businesses, specifically, software and programs for analysis of document imaging, management and document functionality and reliability]	“ELITE ENCOMPASS” [software for electronic document management for use by corporate, government and professional service organizations]	Crowley and Axilbund	No
9-27	EX EX EX	76606583 76606584 76606585	Cosmetic Dermatology, Inc.	Holtzman; Rogers; Drost*	2(e)(4)	Refusal Affirmed in all three cases		“DR. BRANDT” [skin lotion, exfoliate, shave gel, sun screen preparations, <i>and other goods</i> ] <i>and</i> [postcards, newsletters, booklets, brochures, and press kits in the field of skin care] <i>and</i> [cosmetic bags sold empty]		McBride	No

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9-27	OPP	91154452	General Biscuits Belgie v. Tukas Turgut Konserve-cilik Anomin Sirketi	Quinn; Bucher; Drost*	2(d)	Opposition Dismissed in both classes	"TUC" (and other marks incorporating the word "TUC") [preserved, dried and cooked fruits and vegetables, jam, jelly, soups, stewed fruits; potato-based salted snack foods, potato-based sweet snack foods; mini-cooked pork meat appetizers; rice, puffed rice; tapioca, flours, sweet pies, salted pies, pizzas, sweet tarts, salted tarts, plain pasta, flavored pasta, filled pasta, frozen, prepared or packaged meals consisting primarily of pastry; bread, sweet biscuits, salted biscuits, plain wafers, coated wafers, filled wafers, flavored wafers, plain cakes, coated cakes, filled cakes, flavored cakes, plain pastries, coated pastries, filled pastries, flavored pastries; candy, frozen confections, confectionery chips for baking, natural salt, flavored salt, mustard, vinegar, sauces]	"TUKAS" (in slightly stylized lettering) [ <i>in Class 29</i> : processed, canned, and fresh meats, poultry and game, <i>etc.</i> ; seafood, namely, fish, shrimp, and shellfish; meat extracts; processed fruits and vegetables, <i>etc.</i> ; processed jellies; jams, and marmalade; soups; prepared entrees consisting primarily of meat, poultry, fish or vegetables; <i>and a number of other goods</i> ; <i>in Class 30</i> : sauces; mixes, namely, cake, pancake, waffle, cookie and brownie; flour; pizza; bread and bread products, <i>etc.</i> ; rice; mustard; vinegar; puffed corn snacks; <i>and a number of other goods</i> ]			No

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9-27	EX	78415636	Powell Fabrication & Manufacturing, Inc.	Seeherman; Hohein; Hairston*	whether applicant's specimens are acceptable to show service mark use of its mark [Note: Registration was not refused as to the services in Class 35. And, during the pendency of the appeal, applicant abandoned its application in Class 37.]	Refusal Affirmed [Applicant's mark will be published for its services in Class 35 only.]		"UNICHLOR" [in Class 42: providing technical information in the field of design and operation of chlor-alkali plants and processes for the manufacture of chlorine, caustic, and hydrogen and subsequently sodium hypochlorite, ferric chloride, calcium hypochlorite, hydrochloric acid, and other chlorine derivatives]		Khan	No
9-28	EX	78430225	Thoroughbred Legends, LLC	Hohein; Grendel; Kuhlke*	2(e)(1)	Refusal Affirmed		"KELSO" [printed matter, namely, books and magazines featuring information pertaining to horses, comic books, coloring books, children's activity books, children's books; paper goods, namely, stationery, writing paper, envelopes, notebooks, diaries, posters, photographs, book covers, book marks, calendars, and gift-wrapping paper]		Hayes	No

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9-28	OPP OPP	91156666 91158331	Optimize Technologies, Inc. v. Wicom GmbH	Seeherman; Holtzman* Drost	2(d)	Opposition Sustained in both cases and as to all classes	<p>“OPTI” [liquid transfer components of chemical analysis equipment, namely high-performance liquid chromatography (HPLC) – pistons and plunger seals for pumps; solvent reservoir filters; in-line filters; tubing; check valves; prime and purge valves; pump heads, precolumn filters; and fittings and tubing];</p> <p>“OPTI-GUARD” [precolumn filters and guard columns for HPLC]; “OPTI-MAX” [check valves for HPLC]; “OPTI-SEAL” [piston and plunger seals for HPLC pumps];</p> <p>“OPTIMIZE TECHNOLOGIES” [liquid transfer components of chemical analytical equipment, namely, HPLC, <i>etc.</i>];</p> <p>“OPTI-PAK” [capillary trap cartridges for HPLC, <i>etc.</i>]; “OPTI-SOLV” [filters for HPLC, <i>etc.</i>]</p>	<p>“OPTIFLOW” [laboratory filters for purification and cleaning of fluid laboratory samples, sold separately]</p> <p><i>and</i></p> <p>“OPTI-LIGHT” [<i>in Class 1:</i> chromatography chemicals; <i>in Class 9:</i> analytical devices and systems for use in the chemical and physical analysis of solid, liquid and gaseous compounds and mixtures and structural and replacement parts therefor]</p>			No

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9-28	OPP (SJ)	91164233	Dole Fresh Fruit Company v. Cash and Carry, L.P.	Hohein; Walters; Walsh [Opinion "By the Board" (Polo-georgis)]	2(d)	Opposition Sustained (Opposer's motion for summary judgment granted)	"TROPICAL GOLD" [fresh papaya and pineapple delivered to retail customers in airports; fresh fruits]	"TROPICAL GOLD" [nonalcoholic beverages, namely, noncarbonated flavored drinks and fruit juices]			No
9-28	OPP	91124302	S.S. White Burs, Inc. v. S.S. White Technologies, Inc.	Hairston*; Walters; Kuhlke	2(d)	Opposition Sustained	"SS WHITE" [dental and medical products, including burs and gloves used for dental and other medical procedures; <i>and other goods</i> ]	"S.S. WHITE" [hand operated medical tools and instruments used in orthopedics, namely, pin pullers, hammers, mallets, ratchets and sockets, wrenches, quick disconnects, drill chucks, torque instruments, screwdrivers, universal nail and rod extraction sets, and the following custom designed tools: bone and stem inspectors, femoral head extractors, bone taps, reamers, drill bits, spinal fixation tools, cutting blocks, and bone screws]			No
9-29	EX	76571967	GINC UK Ltd.	Quinn; Grendel; Holtzman*	2(d)	Refusal Affirmed		"ZOGGS" [swimwear, swimsuits, swim caps, warm-up suits, t-shirts, jackets, wet suits, shorts, socks, sun visors, sun hats and sun caps, sports clothing, sandals, beach shoes, sports shoes, plimsolls, training shoes]	"ZOG" (and design) [outerwear, namely, t-shirts, sweat shirts, coats, jackets, cover-ups, caps, hats, swim suits and wet suits, and inner wear, namely, a body-conforming unitard]	Dwyer	No

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9-29	EX EX	78413033 78413043	Empower Technologies, Inc.	Seeherman; Quinn; Rogers*	2(d)	Refusal Affirmed in both cases		"LINUXDA" and "LINUXDA EMBEDDED" (and design) <i>[both marks for: computer software and hardware, namely, operating system programs, data synchronization programs, server software; and a number of other goods]</i>	"LINUX" [computer operating system software to facilitate computer use and operation]	Fairbanks	No
9-29	OPP	91162058	Bose Corporation v. ONG Corp.	Holtzman; Rogers*; Zervas	2(d)	Opposition Sustained	"WAVE" [radios, clock radios, audio tape recorders and players, portable radio and cassette recorder combination, compact stereo systems and portable CD players]; "ACOUSTIC WAVE" [loudspeaker systems and music systems consisting of a loudspeaker system and amplifier and at least one of a radio tuner, CD player and audio tape cassette player]; "WAVE/PC" [sound reproducing system, comprising a radio, electronic interface for coupling the radio to a computer, and computer software for controlling the signal transmission between the radio and the computer]	"WAVETRACE" [sound recording, transmission, and reproducing apparatus, namely, audio encoding and decoding circuit boards and software for converting audio content to and from digital audio files]			No

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9-29	EX	76555786	Marilyn Feingold	Quinn; Walters*; Cataldo	2(e)(1)	Refusal Affirmed		"YIDDISH YOGA" [yoga instruction, namely, providing classroom instruction that incorporates Jewish culture into the art of yoga]		Stine	No
9-29	OPP	91162489	Vibe Media Group LLC v. RawVibe Entertainment, Inc.	Bucher*; Holtzman; Drost	2(d); whether applicant's application is void ab initio for failure to make bona fide use of its mark prior to the filing date of its use-based application to register	Opposition Sustained on both grounds	"VIBE" [general interest magazine]; "VIBE RECORDS" (and design) [audio and video recordings featuring performances by individual musicians and musical groups]; <i>and a number of other marks, all comprising or incorporating the word "VIBE," for a variety of goods and services</i>	"RAWVIBE" [pre-recorded audio, visual and audio-visual performances in analog and digital configurations and formats contained in analog magnetic and digital magnetic tapes and discs, all containing music]			No

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