

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD
August 28 – September 1, 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
8-28	EX	78376654	Ross Global, Inc.	Quinn Bucher Cataldo*	2(e)(1)	Refusal Affirmed		"PURE OXYGEN FROM POWDER" [medical devices, namely, oxygen generating apparatus, parts and fittings for such apparatus, oxygen masks and refill packs or refill cartridges]		Alt	No
8-28	EX	76590093	Millersport, Inc.	Quinn Hohein Walters*	2(d); Section 6 disclaimer requirement (of the word GLOVE)	Refusal Affirmed on both grounds		"GOLDEN GLOVE" [baseball gloves for Little League baseball players]	"GOLD GLOVE" [baseball gloves and mitts]	Stoides	No
8-28	EX	76636010	Woodridge Labs, Inc.	Seeherman Walters* Kuhlke	2(d)	Refusal Affirmed		"OPTIMOIST" [hair care preparations, namely, shampoos]	"OPTI MOISTURE" [skin cleansing, moisturizing and firming creams, lotions and liquids, face masques, topically applied non-medicated lotions, crams and masques to reduce fine lines and wrinkles on the face and skin]	Crowley	No
8-28	EX	76523001	ACH Direct Inc.	Hohein Grendel Kuhlke*	2(e)(1); whether applicant's mark is registrable on the Supplemental Register (genericness)	Refusal Affirmed as to 2(e)(1), but Refusal Reversed as to registration on Supplemental Register		"ATMVERIFY" [providing bank account verification information by means of both private networks (leased/dedicated lines) and secured public networks (Internet SSL)]		Mays	No

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8-28	EX	76571009	Lipner	Hairston* Bucher Kuhlke	2(d)	Refusal Reversed		"TRUE BLUE" (and design) [air filters for domestic and commercial use, namely, air conditioner and furnace air filters]	"TRUE BLUE" [air purifying units for use with air respirators]	Ervin	No
8-28	EX	76569932	Bare Escentuals, Inc.	Quinn Bucher* Kuhlke	2(d)	Refusal Affirmed as to all five cited registrations		"WIDE AWAKE" [cosmetics, namely, eye shadow and mascara; cosmetics for the skin and eyes; skin creams, lotions and gels, essential oils used as cosmetics]	<i>5 cited registrations, all owned by the same entity:</i> "AWAKE" [cosmetics and cosmetic soaps, namely, eye shadows, mascara, cleansing creams, gels, lotions; and other goods]; "AWAKE" [full line of cosmetic brushes and sponges]; "AWAKE" (and design) [house mark for a line of cosmetics]; "AWAKE" (in stylized lettering) [house mark for a line of cosmetics; house mark for a line of cosmetic brushes and sponges]; "AWAKE" (and design) [cosmetic utensils, namely, cosmetic brushes and sponges]	Gray	No
8-28	EX	78411088	Belle Garden LLC	Seeherman Hohein Bucher*	Section 6 disclaimer requirement (of word BAG)	Refusal Affirmed		"GARDEN BAG" [flower and plant holders made of cloth]		Lott	No

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8-28	EX	78452093	Mortgage Returns, L.L.C.	Quinn Zervas Walsh*	2(e)(1)	Mark as a whole found not merely descriptive; but refusal will not be reversed absent a disclaimer of the word "MORTGAGE." Applicant given time to submit disclaimer.		"MORTGAGE RETURNS" [providing temporary use of on-line, non-downloadable software in the field of customer relationship management for use in tracking key dates, maintaining client contact information, and incorporating customer account-specific details into tracking, such as which clients to contact when and why based upon client specific information for use by the mortgage industry]		Spruill	No
8-30	EX	76585314	Domecq, Baxley, Resch and Niermeyer	Quinn* Walters Cataldo	2(d)	Refusal Affirmed		"RODEO COLD" [malt beverages, namely, beer]	"RODEO STOUT" [malt liquors, namely, stout]	Smiga	No
8-30	OPP	91158548	United Country Real Estate, Inc. v. Christopher B. Colwell	Seeherman* Zervas Walsh	2(d)	Opposition Sustained	"UNITED," "UNITED COUNTRY," "UNITED COUNTRY" (and design), "UNITED NATIONAL REAL ESTATE" (and design) and a family of marks incorporating the word "UNITED" [all marks for: real estate brokerage services]	"REALTY UNITED" [franchising services, namely, rendering technical assistance to others in the establishment and/or operation of real estate brokerage businesses and associated services]			No

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8-30	OPP	91162276	Meritage Real Estate Development Group, Inc. v. Andrie F. Grimaud and Michael R. Marquardt	Hohein* Walters Grendel	2(d)	Opposition Dismissed	"STORE MORE AMERICA" [storage services, namely, refrigerator storage, wine storage, wine barrel storage, cigar storage, vehicle storage, warehouse storage, and providing storage space]	"STORE MORE! SELF STORAGE" (in design format) [providing self storage or mini storage services]			No
8-30	EX	76593850	National Sales and Supply, LLC	Seeherman* Quinn Hohein	2(d)	Refusal Affirmed as to both cited registrations		"MAJESTIC MULCH" [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
8-30	EX	76208111	Metro-politan Trading Co.	Walters* Drost Cataldo	2(d)	Refusal Affirmed as to all three cited registrations		"ZODIAC" [clothing, excluding t-shirts; namely, neckties, boas, braces; collars; cuffs; pants; trousers; coats; suits; overcoats; blazers; jerseys; jackets; shorts; bermudas; sweaters; shawls; headwear]	3 cited registrations: "ZODIAC" (in stylized format) [shoes]; "ZODIAC" [footwear, namely, shoes, boots, clogs, sandals]; "ZODIAC" (and design) [footwear]	Dawe	No

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8-31	EX	78371570	Wachovia Corporation	Bucher* Zervas Kuhlke	2(d)	Refusal Affirmed		"CUSTOMCHOICE" [investment brokerage services, namely, fee-based nondiscretionary mutual fund services for customers with a minimum account size of \$25,000]	"CUSTOM CHOICE" [life insurance, annuity, disability, long term care, supplemental health, homeowner's and auto insurance underwriting services; financial and retirement planning services; investment counseling services; and automobile warranty service contract services]	In	No
8-31	EX	75690413	Davis	Hohein Hairston Walters*	2(e)(1)	Refusal Affirmed		"ROBOT GLADIATORS" [entertainment services, namely, the production of demonstrations and shows featuring fights between human and robot performers rendered live and through the medium of television]		Stoides	No
8-31	OPP	91161428	Project Seed, Inc. v. Sharon K. Quigley	Quinn Walters* Walsh	2(d)	Opposition Sustained	"PROJECT SEED" [educational services, namely, conducting training courses for instructors in teaching methods and providing instruction in mathematics]	"SEED" [promoting public awareness of the need for social competency curricula in elementary, middle and high schools]			No

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9-1	EX	78135632	Smokaroma, Inc.	Walters Drost Zervas*	2(d); Section 6 disclaimer requirement (of the word BAR-B-Q); whether applicant's proposed amendment to its identification of goods is acceptable	Refusal Affirmed on all grounds		"BAR-B-Q BOSS" [barbeque sauce as a liquid, and a dry mixture; barbeque spice mixes]	"BOSS SAUCE" [sauces and dipping sauces]	Martin	No

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