

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

June 28 – July 2, 2004

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
6-28	CANC	92028640	Roy Bradshaw v. Cabela's, Inc.	Simms Chapman Drost*	2(d); whether cancellation petitioner's pleaded trade names and trademarks have acquired distinctiveness	Petition to Cancel Denied	"REAL IMAGE" and "REEL IMAGE" [ <i>trade name and trademark use in connection with fishing lures</i> ]	"REALIMAGE" [fishing lures]			No
6-29	EX	76329041	Red Lion Mfg., Inc.	Hanak* Hohein Walters	2(d)	Refusal Affirmed		"ZR" (in stylized lettering) [golfwear, namely, jackets, pullovers, vests, slacks, pants, shirts, shorts, hats, caps, visors, ear bands, gloves, and fleece-lined hand warmers not related to or for use with snowmobiles]	"ZR" [snowmobile suits and jackets]	Turner	No
6-29	EX	76303536	RHR Int'l. Co.	Seeherman Hanak Bottorff*	2(d)	Refusal Affirmed as to both cited registrations		"CHANGINGWORKS" [business consultation services relating to organizational assessment and improvement]	2 cited registrations, both owned by the same entity: "THE CHANGE WORKS" (and design incorporating a question mark and a lower case "a") [business management and consultation] and "THE CHANGE WORKS" [business consultancy services; business management and business organizational consultancy services]	Jenkins	No

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6-29	EX	76315836	BBK, Ltd.	Hanak Chapman* Rogers	2(d)	Refusal Reversed		“BUSINESS BUILDING KNOWLEDGE” [turnaround management consulting services, namely, corporate renewal, operations improvement, interim management, organizational and financial restructuring, litigation support services, and product and supplier analysis, all for troubled companies]	“BUILDING KNOWLEDGE” [business management and consultation; business management supervision]	Chhina	No
6-29	EX	78117536	Lanza Vineyards, Inc.	Chapman Rogers Drost*	2(e)(4)	Refusal Affirmed		“LANZA VINEYARDS” [wine]		Beverly	No
6-29	EX (R)	76345344	Diamond Machining Technology, Inc.	Quinn Bucher* Drost	genericness; whether, if not generic, mark has acquired distinctiveness under Section 2(f)	Request for Reconsideration granted: previous decision affirming refusal to register is vacated and application is remanded for examination of 2(f) claim		“DIAMOND WHETSTONE” [whetstones for sharpening, honing, deburring and abrading]		Straser	No

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6-29	EX	76302658	Great Lakes Ramco, Inc.	Bucher* Rogers Drost	whether applicant submitted a properly verified specimen of use of its mark in commerce in connection with its recited services	Refusal Affirmed		"GREAT LAKES RAMCO" [business management services]		Hwang	No
6-29	OPP	91100786	M.C.A. – Medical and Chemical Agency s.r.l v. Zenna Chemical Industry Co. Ltd. <i>and</i>	Hairston* Walters Bucher	2(d)	Opposition Sustained	"TOP-GEL" <i>and</i> "MCA" [skin care products]	"TOP-GEL MCA" (in block letters) [skin cleansing milk, skin cleansing crème, foundation powder and face cream]			No
	OPP	91104047	Zenna Chemical Industry Co. Ltd. v. M.C.A. – Medical and Chemical Agency s.r.l. <i>and</i> M.C.A. – Medical and Chemical Agency S.p.A.		2(d)	Opposition Dismissed	"MCA" (in stylized design form) [body cream, cold cream, eye cream, face cream, skin cleansing cream, skin cleansing lotion, medicated skin cream, and vanishing cream, foundation makeup, talcum powder, toilet soap, liquid soap for hands, face and body, perfume, lipstick and lip pomades]	"MCA" (in stylized design form) [skin cream and soap]			

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6-29	OPP	91153021	Erico Int'l. Corp. v. Crave Development Inc.	Quinn* Walters Chapman	2(d)	Opposition Dismissed	"CADDY" [fasteners for industrial purposes, particularly for use in the construction industry, namely, channel brackets, bridle rings, conduit clips, hanger clips, and low voltage clips]; "CADDY" (in stylized lettering) [arc welding electrode holders, ground clamps and cable connectors]; design mark comprising a cartoon figure of a man [fasteners for industrial purpose]	"CAN CADDIE" [metal ladder attachment in the nature of a paint can carrier; plastic ladder attachment in the nature of a paint can carrier]			No
6-30	EX	76307697	Starcrest Products of California, Inc.	Hanak Quinn* Bottorff	2(d)	Refusal Affirmed		"LEISURE LIVING" [mail order catalog and mail order services in the field of general merchandise, in the area of tools, gadgets, sprays, solutions and other things for making one's home chores inside and outside the home easier, and excluding: swimming pools, swimming pool supplies, swimming pool equipment, outdoor furniture, swimming pool accessories, fencing, swim masks and swimming pool fins, toys, games, and floats]	"LEISURE LIVING STORES" [retail stores and mail order and telephone order catalog services featuring swimming pools, swimming pool supplies, equipment, and accessories, outdoor furniture, fencing, swim masks and fins, toys, games, and floats]	Richards	No

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6-30	EX	76386279	The General Assembly of the Christian Church (Disciples of Christ)	Bucher* Bottorff Holtzman	2(d)	Refusal Affirmed		"THE DISCIPLE" [a periodically distributed publication, namely, a religious magazine]	<i>2 cited registrations, both owned by the same entity and both registrations for the mark "THE DISCIPLE" [bi-weekly religious magazine] and [providing Internet access to an electronically distributed newsletter for transfer and dissemination of information in the field of religion]</i>	Richards	No
6-30	EX EX	76097189 76130605	Naturally Scientific, Inc.	Bucher Bottorff Holtzman*	2(d)	Refusal Affirmed in both cases		"STRESS MENDER" and "SLEEP MENDER" [both marks for nutritional and dietary supplements]	"MOOD MENDER" [health and performance foods, namely, ready-to-eat food bars, chewing gum and tea-based beverages]	Brown	No
6-30	EX	78068851	TruServ Corp.	Hanak Holtzman Rogers*	2(e)(1); whether applicant's mark is registrable under Section 2(f)	Refusal Affirmed on both grounds		"WOOD CARE CENTER" [retail hardware store services featuring wood care and related products, namely, paints, stains, protectants, sealants, and finishes, and paint and stain accessories including brushes and rollers for the treatment of home remodeling and building materials]		Winter	No

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6-30	EX	76196140	LJ Business Services, Inc.	Hohein Bottorff Rogers*	2(e)(2)	Refusal Affirmed		“INSTALLATION PROFESSIONALS OF NORTH AMERICA” [retail business renovation upfit and remodeling services]		Cain	No
6-30	EX	76342048	Precision Cuts, Inc.	Simms* Hanak Chapman	Section 6 disclaimer requirement of the words PRECISION CUTS	Refusal Affirmed		“PRECISION CUTS” (in design format) [barbershop and tanning salon services]		Foster	No
6-30	OPP	91119656	Bell South Intellectual Property Corporation v. VCS Technologies Inc.	Hairston Walters* Rogers	2(d); dilution	Opposition Dismissed	“THE REAL WHITE PAGES” [telephone directories]; “THE REAL YELLOW PAGES” (in typed format and in stylized lettering) [classified directories; promoting the goods and services of others through consulting on directory advertising programs; etc.]; “REAL HELP FOR THE REAL WORLD” [on-line classified directories downloadable from the Internet]; <i>and a number of other “REAL” marks for related services</i>	“REALCOMMERCE” [dissemination of advertising for others via on-line electronic communications and business marketing consulting services in the field of e-commerce; computer services, namely, designing and implementing network web pages and websites for others, hosting the web sites of others on a computer server for a global computer network; and technical consultation and research in the field of electronic commerce]			No

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6-30	EX	76255445	The Administrators of the Tulane Educational Fund	Simms* Seeherman Rogers	genericness [registrability on the Supplemental Register]	Refusal Affirmed		“ON-LINE MARKETPLACE” [online retail services featuring clothing, novelty gift items, books, home furnishings, computers, and computer peripherals]		Stine	No
6-30	OPP	91152083	The Goodyear Tire & Rubber Co. v. Camoplast, Inc.	Seeherman Walters* Drost	de jure functionality; whether, if not functional, applicant's mark is inherently distinctive or has acquired distinctiveness	Opposition Sustained on all grounds		configuration of the tread pattern located over the entire outside surface of applicant's rubber tracks [rubber tracks used in land vehicles]			No
6-30	EX	75470334	Jacobson, Price, Holman & Stern, PLLC	Hanak* Bucher Rogers	2(e)(1)	Refusal Affirmed		“FILEFINDER” [a computer program used as a tool in connection with electronic records management, paper records management, and three-dimensional inventory records management]		Golden	No
7-2	OPP	91122927	Nixalite of America Inc. v. Bird Barrier of America, Inc.	Quinn Hohein* Bottorff	genericness [whether applicant's mark is registrable without a disclaimer of the words BIRD BARRIER]	Opposition Sustained (but applicant allowed time to submit disclaimer)		“BIRD BARRIER” (and design) [pest control devices, namely, non-electric metal wire attached to a structure for deterring birds from landing and perching]			No

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7-2	EX	76411171	Baldwin Piano, Inc.	Simms Chapman* Holtzman	2(e)(4)	Refusal Affirmed		"BREWSTER" [pianos]		Le	No

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