

**United States Patent and Trademark Office**  
**Trademark Trial and Appeal Board**  
P.O. Box 1451  
Alexandria, VA 22313-1451

*Mailed: November 7, 2007*

In re CHICAGO PNEUMATIC TOOL  
COMPANY LLC

Serial No. 76659543

Filed: 5/3/2006

JORDAN S. WEINSTEIN  
OBLON, SPIVAK, MCCLELLAND, MAIER  
1940 DUKE ST,  
ALEXANDRIA, VA 22314-3451

**Clara Vela, Paralegal Specialist**

Applicant filed, on October 23, 2007, a notice of appeal and a response that includes an amendment.

The appeal is hereby instituted. However, the response requires consideration by the Trademark Examining Attorney. Accordingly, action on the appeal is suspended and the application is remanded to the Examining Attorney.

One basis of the final refusal was the unacceptability of the identification of goods, and the request contains a proposed amendment to the identification. If the amendment is accepted and the mark is found registrable on the basis of this paper, the appeal will be moot and proceedings on the appeal will terminate in due course. If the amendment is accepted but the refusal to register is maintained, the

Examining Attorney should issue an Office Action so indicating, and notify the Board. The appeal will then be resumed and applicant allowed time in which to file its appeal brief. If the Examining Attorney determines that the amendment to the identification is not acceptable, the Examining Attorney should indicate in the Office Action the reasons why the proposed amendment is unacceptable, and notify the Board for resumption of proceedings in the appeal.<sup>1</sup>

However, if the Examining Attorney believes that the problems with the proposed identification can be resolved, the Examining Attorney is encouraged to contact applicant, either by telephone or written Office Action, in an attempt to do so.

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<sup>1</sup> If the Examining Attorney believes that the proposed amendment is unacceptable because it exceeds the scope of the original identification, or the identification as it has subsequently been amended, then the Examining Attorney may not issue a final refusal unless applicant was previously advised that amendments broadening the identification are prohibited under Trademark Rule 2.71(a).