

THIS OPINION IS NOT A
PRECEDENT OF THE T.T.A.B.

Mailed: February 1, 2013

United States Patent and Trademark Office
Trademark Trial and Appeal Board

In re Apple Inc.

Serial No. 77616247

Serial No. 77844718

Serial No. 77844736

Glenn A. Gundersen of Dechert LLP for Apple Inc.

Michael Webster, Trademark Examining Attorney, Law Office 102 (Karen Stryz, Managing Attorney).

Before Holtzman, Bergsman and Shaw, Administrative Trademark Judges.
Opinion by Bergsman, Administrative Trademark Judge:

Applicant seeks registration on the Principal Register for the mark OpenCL, in standard character form,¹ and for the two marks OpenCL and design, shown below, all for the following goods, as amended, “application programming interface computer software for use in developing applications for execution on central processing units (CPU) or graphic processor units (GPU), sold as an integral component of computer operating software,” in Class 9.

¹ Application Serial No. 77616247 was filed on November 17, 2008.

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In a decision dated August 28, 2012, the Board issued the following order:

In Serial No. 77616247 for the mark OpenCL, in standard character form, the refusals to register are reversed and this application will be forwarded to publication.

In Serial Nos. 77844718 and 77844736 for the marks OpenCL and design, the descriptiveness refusal is reversed but the requirement that applicant failed to submit an acceptable specimen is affirmed and registration is refused.

On September 21, 2012, applicant filed a request for reconsideration of the August 28, 2012 Order. As grounds for reconsideration, applicant argues that application Serial No. 77844736 is an intent-to-use application and that

² Application Serial No. 77844718 was filed on October 8, 2009.

³ Application Serial No. 77844736 was filed on October 8, 2009.

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the examining attorney never issued a specimen refusal in connection with that application. Applicant is correct. The request for reconsideration is granted.

The Decision section on the last page of the Board's August 28, 2012 Order is deleted and replaced with the following:

Decision: In Serial No. 77616247 for the mark OpenCL, in standard character form, and Serial No. 77844736 for the mark OpenCL and design (color logo), the refusals to register are reversed and the applications will be forwarded to publication.

In Serial No. 77844718 for the mark OpenCL and design (black and white logo), the descriptiveness refusal is reversed but the refusal based on applicant's failure to comply with a requirement that applicant submit an acceptable specimen is affirmed.