

**UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451**

Winter/vb

Mailed: July 22, 2008

Opposition No. 91181984

Apple Inc.

v.

NYC & Company, Inc.

On June 26, 2008, applicant filed its proposed amendments to the involved applications, Serial Nos. 77179942 and 77179968, with opposer's consent, together with the parties' stipulation that upon approval and entry of the respective amendments, the opposition and claims, and counterclaims and defenses asserted in this proceeding shall be dismissed without prejudice.

By the proposed amendments, applicant seeks to amend the drawing page in each application by deleting the leaf element from the design. In support of the amendments, applicant has submitted a substitute drawing page for each application.

Amendments to the drawing of the mark in an application based on a bona fide intention to use the mark in commerce under Section 1(b) of the Trademark Act may be approved if

Opposition No. 91181984

the proposed amendment does not materially alter the mark.
See Trademark Rule 2.72(b)(2).

Inasmuch as the proposed amendments comply with the procedural requirements of Trademark Rule 2.72, the proposed amendments are hereby approved and entered.

The contingencies in the parties' withdrawal of their respective claims having now been met, the opposition and the counterclaims are ***dismissed without prejudice*** in accordance with the parties' stipulation.

***By the Trademark Trial
and Appeal Board***