

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

vw

Mailed: May 24, 2010

Opposition No. 91184702

NBTY, Inc.

v.

Phyto Tech Corp. d/b/a
Blue California Co.

On May 5, 2010, opposer filed a withdrawal of the opposition with prejudice in accordance with the parties' settlement and coexistence agreement. In view thereof, the opposition is dismissed with prejudice.

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