

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

Baxley/Coggins

Mailed: April 13, 2005

Cancellation No. 92043312

NIENKAMPER FURNITURE &
ACCESSORIES INC.

v.

FIXTURES MANUFACTURING
CORPORATION

By the Trademark Trial and Appeal Board:

Petitioner, without the written consent of respondent, filed a "motion to dismiss ... [the] cancellation proceeding" on December 6, 2004. Petitioner's motion will be treated as a withdrawal of the petition to cancel.

Trademark Rule 2.114(c) provides that after an answer is filed,¹ the petition for cancellation may not be withdrawn without prejudice except with the written consent of respondent.

In view thereof, and because the withdrawal was filed after answer, the petition for cancellation is dismissed with prejudice.

¹ Respondent filed its answer on June 30, 2004.