

LIVE PHOTOS (SN 86868731)

This supplements the office action response filed on October 5, 2016 by applicant Apple Inc. ("Apple"). The application has been refused under Section 2(d) on the basis of likelihood of confusion with the registered mark HP LIVE PHOTO owned by HP Hewlett-Packard Group LLC ("HP").

Enclosed is a consent in which HP has consented to Apple's use and registration of the mark LIVE PHOTOS for computer software. As detailed in the consent agreement, HP and Apple have not encountered any confusion, and agree that confusion between their respective marks is unlikely to occur, for the reasons detailed in the consent.

The Court of Appeals for the Federal Circuit has held that such consent agreements should be given great weight. *Amalgamated Bank of New York v. Amalgamated Trust & Savings Bank*, 842 F.2d 1270, 6 USPQ2d 1305 (Fed. Cir. 1988); *Bongrain International (American) Corp. v. Delice de France Inc.*, 811 F.2d 1479, 1 USPQ2d 1775 (Fed. Cir. 1987); and *In re N.A.D. Inc.*, 754 F.2d 996, 224 USPQ 969 (Fed. Cir. 1985).

In light of the foregoing, Apple respectfully requests that the examining attorney withdraw the Section 2(d) refusal to register and approve the application for registration.