

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): May 27, 1997

OFFICE DEPOT, INC

(Exact name of registrant as specified in its charter)

DELAWARE

59-2663954

(State of other jurisdiction of incorporation) (IRS Employer Identification Number)

1-10948

(Commission File Number)

2200 OLD GERMANTOWN ROAD, DELRAY BEACH, FLORIDA

33445

(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code: (561) 278-4800

ITEM 5. OTHER EVENTS.

On May 27, 1997, Office Depot, Inc. ("Office Depot"), Staples, Inc. ("Staples") and Marlin Acquisition Corp., a wholly-owned subsidiary of Staples ("Marlin") executed Amendment No. 2 (the "Second Amendment") to the Agreement and Plan of Merger by and among Office Depot, Staples and Marlin dated as of September 4, 1996 (the "Merger Agreement"), which modified the Merger Agreement in two respects. First, Section 8.01(b) of the Merger Agreement was amended to provide that either Office Depot or Staples may terminate the Merger Agreement if the Merger of Marlin with and into Office Depot (the "Merger") has not been consummated by June 30, 1997 (provided that the right to so terminate the Merger Agreement will not be available to any party whose failure to fulfill any obligation under the Merger Agreement has caused the failure of the Merger to occur on or before such date); prior to such amendment, such termination right would have arisen if the Merger had not been consummated by May 31, 1997. Second, the Second Amendment established an additional termination right, which provides that (i) either Office Depot or Staples may terminate the Merger Agreement at any time during the period commencing upon the issuance of a ruling on the Federal Trade Commission's (the "FTC") motion for a preliminary injunction prohibiting consummation of the Merger (the "Preliminary Injunction Motion") and ending at 11:59 p.m. (Eastern standard time) on the fourth full business day following the day on which a written ruling on the Preliminary Injunction Motion is first published, and (ii) neither Office Depot nor Staples shall be obligated to consummate the Merger prior to the expiration of the termination right set forth in the preceding clause (i). This four business day period will provide each of Office Depot and Staples with the opportunity to review the basis for any denial by the United States District Court for the District of Columbia of the Preliminary Injunction Motion and to determine whether it would be in the best interests of their respective stockholders to consummate the Merger despite an appeal by the FTC of the Court's decision with respect to the Preliminary Injunction Motion or the institution or possible institution by the FTC of an administrative proceeding challenging the Merger. A copy of the Second Amendment is attached as Exhibit 99.1 to this Current Report on Form 8-K, and the foregoing summary is qualified in its entirety by reference to such copy of the Second Amendment.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

OFFICE DEPOT, INC.
(Registrant)

Dated: May 30, 1997

By: /s/ Barry J. Goldstein

Barry J. Goldstein
Executive Vice President--Finance,
Chief Financial Officer and Secretary

INDEX TO EXHIBITS

Exhibit
Number

99.1 Amendment No. 2 dated as of May 27, 1997 to Agreement and Plan of Merger dated
September 4, 1996 by and among Office Depot, Inc., Staples, Inc. and Marlin
Acquisition Corp.

Amendment No. 2 to Agreement and Plan of Merger

This Amendment No. 2 dated as of May 27, 1997 to Agreement and Plan of Merger dated as of September 4, 1996, as amended (the "Merger Agreement"), among Staples, Inc. ("Staples"), Marlin Acquisition Corp. ("Sub") and Office Depot, Inc. ("Office Depot").

WHEREAS, Staples, Sub and Office Depot desire to amend the Merger Agreement upon the terms set forth below.

NOW, THEREFORE, for valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Section 8.01(b) of the Merger Agreement is hereby amended to read in its entirety as follows:

"(b) by either Staples or Office Depot if the Merger shall not have been consummated by June 30, 1997 (the "Outside Date"), provided that the right to terminate this Agreement under this Section 8.01(b) will not be available to any party whose failure to fulfill any obligation under this Agreement has been the cause of or resulted in the failure of the Merger to occur on or before such date; or"

2. The following new Section 8.06 is hereby added to the Merger Agreement immediately after Section 8.05:

"Section 8.06. Additional Termination Right. Notwithstanding anything to the contrary in this Agreement, (i) Staples and Office Depot shall each have the right to terminate this Agreement, by written notice to the other, whether before or after approval of the matters presented in connection with the Merger by the stockholders of Office Depot or Staples, at any time during the period commencing upon the issuance by the United States District Court for the District of Columbia (the "District Court") in Civil Action No. 97-701 of its ruling disposing of the FTC's motion for a preliminary injunction with respect to the Merger and ending at 11:59 p.m. (Boston time) on the fourth business day following the day on which the written ruling of the District Court disposing of such motion is first published, and (ii) neither Staples nor Office Depot shall be under any obligation to effect the Merger prior to the expiration of the termination right set forth in clause (i) of this Section 8.06."

3. Except as amended hereby, the Merger Agreement shall remain in full force and effect in accordance with its terms.

WHEREAS, Staples, Sub and Office Depot have caused this Amendment to be signed by the respective officers thereunto duly authorized as of the date first above written.

STAPLES, INC.

By: /s/ Thomas G. Sternberg

MARLIN ACQUISITION CORP.

By: /s/ Thomas G. Sternberg

OFFICE DEPOT, INC.

By: /s/ David L. Fuente
