

ESTTA Tracking number: **ESTTA38727**

Filing date: **07/14/2005**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

| | |
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| Proceeding | 91160980 |
| Party | Plaintiff KELLOGG NORTH AMERICA COMPANY AND KELLOGG COMPANY Kellogg North America Company One Kellogg Square Battle Creek, MI 49016 UNITED STATES |
| Correspondence Address | LISABETH H. COAKLEY HARNES, DICKEY & PIERCE, P.L.C. 5445 CORPORATE DRIVE SUITE 400 TROY, MI 48098 UNITED STATES david.herdman@kellogg.com |
| Submission | Withdrawal of Opposition |
| Filer's Name | Lisabeth H. Coakley |
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| Signature | /lhc/ |
| Date | 07/14/2005 |
| Attachments | 91160980.pdf (2 pages) |

**THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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|-------------------------------------|-------------------------|
| KELLOGG NORTH AMERICA COMPANY and) | |
| KELLOGG COMPANY) | |
| Opposer) | |
| V.) | Opposition No. 91160980 |
|)) | Serial No. 78/245067 |
| SMALL PLANET FOODS, INC.) | Mark: HEARTY MORNING |
| Applicant) | |
| _____) | |

WITHDRAWAL OF NOTICE OF OPPOSITON

Kellogg North America Company and Kellogg Company hereby withdraw their Notice of Opposition filed against Application Serial No. 78/245067 with prejudice. This withdrawal is made pursuant to the terms of a fully executed Settlement Agreement between the parties.

Respectfully submitted,

Dated: July 14, 2005



Lisabeth H. Coakley, Esq.
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Attorneys for Opposer Kellogg North
America Company and Kellogg Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Withdrawal of Notice of Opposition was delivered via U.S. Mail, First Class postage prepaid, to the following individuals on this 17 day of July, 2005.

Joshua J. Burke
General Mills
Number One General Mills Boulevard
Minneapolis, MN 55426


Timothy J. Comparoni