

ESTTA Tracking number: **ESTTA56852**

Filing date: **12/08/2005**

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

Proceeding	91161241
Party	Plaintiff SUPERVALU INC.  SUPERVALU INC. 11840 Valley View Road Eden Prairie, MN 55344 UNITED STATES
Correspondence Address	Scott W. Johnston Merchant & Gould P.C. P.O. Box 2910 Minneapolis, MN 55402-9944 UNITED STATES
Submission	Other Motions/Papers
Filer's Name	Scott W. Johnston
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Signature	/SWJ/
Date	12/08/2005
Attachments	2005 12 08 Mot to Suspend Pending Express Abandonment.pdf ( 5 pages )

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

_____ )	
SUPERVALU INC., )	Opposition No. 91161241
)	
Opposer, )	Mark: SUPER VALUE
)	
v. )	Serial No. 76/323,411
)	
Franco Manufacturing Co., Inc., )	Filing Date: October 10, 2001
)	
Applicant. )	Published: January 13, 2004
_____ )	

**MOTION TO SUSPEND**  
**PENDING APPLICANT'S EXPRESS ABANDONMENT**  
**OF OPPOSED APPLICATION**

Applicant, Franco Manufacturing Co., Inc., filed an Express Abandonment of the opposed application Serial No. 76/323,411 on September 13, 2005. A copy of the Express Abandonment as filed is attached hereto as Exhibit A. The Board does not appear to have entered the Express Abandonment. Because discovery is set to close December 15, 2005, Opposer respectfully requests that the opposition be suspended pending entry of Applicant's Express Abandonment. Please contact the undersigned if there are any questions about this motion or any other matter.

Respectfully submitted,

SUPERVALU INC.

By its attorneys,

Date: 12-8-05

  
\_\_\_\_\_  
Scott W. Johnston  
Reg. No. 39,721  
MERCHANT & GOULD P.C.  
80 South Eighth Street, Suite 3200  
Minneapolis, Minnesota 55402-2215  
Telephone: (612) 332-5300

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing MOTION TO SUSPEND PENDING APPLICANT'S EXPRESS ABANDONMENT OF OPPOSED APPLICATION of Opposition No. 91161241, regarding Serial No. 76/323,411, was served upon the following attorney of record for Applicant by First Class Mail, this 8th day of December, 2005:

Holly Pekowsky  
Amster, Rothstein & Ebenstein LLP  
90 Park Avenue  
New York, NY 10016

  
\_\_\_\_\_  
Scott W. Johnston

SWJ  
08442.0046UST

35175/82

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

Applicant : Franco Manufacturing Co., Inc.  
Serial No. : 76/323,411  
Filed : October 10, 2001  
Opposition No.: 91161241  
Mark: : SUPER VALUE

\*Express Mail\* mailing label No.: EV591311644US  
Date of Deposit: September 13, 2005  
I hereby certify that this paper or fee is being deposited with the United States Postal Service \*Express Mail\* service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner for Trademarks, Trademark Assistance Center, Madison East, Concourse Level Room C55, 600 Dulany Street, Alexandria, VA 22314.  
Name: Jane Williams  
Signature: Jane Williams

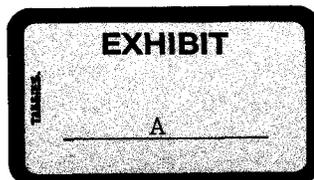
**NOTICE OF EXPRESS ABANDONMENT**

Attn: TTAB  
Commissioner for Trademarks  
Trademark Assistance Center  
600 Dulany Street  
Madison East Concourse Level  
Room C55  
Alexandria, VA 22314-0001

Hon. Commissioner:

Pursuant to 37 C.F.R. § 2.135, Applicant Franco Manufacturing Co., Inc. by its undersigned attorneys, hereby expressly abandons the above application without prejudice. Counsel for Opposer, Supervalu Inc. has consented thereto as indicated below.

321002.1

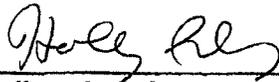


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Respectfully submitted

AMSTER, ROTHSTEIN & EBENSTEIN LLP  
Attorneys for Applicant  
Franco Manufacturing Co., Inc.  
90 Park Avenue  
New York, NY 10016  
Telephone: 212-336-8000  
Fax: 212-336-8001  
e-mail: ptodocket@arelaw.com

Dated: New York, New York  
September 13, 2005

By:   
Holly Pekowsky

CONSENTED TO:

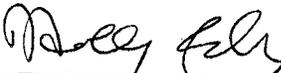
By:   
Scott W. Johnston  
Merchant & Gould P.C.  
P.O. Box 2910  
Minneapolis, MN 55402-9944  
Attorneys for Opposer Supervalu Inc.

Dated: Minneapolis, MN  
September 9, 2005

**CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that she is one of the attorneys for Applicant Franco Manufacturing Co., Inc. in the captioned action, and that on the date which appears below she served a copy of the annexed Notice Of Express Abandonment on Opposer Supervalu Inc. by causing a copy thereof to be placed in a depository under the care and custody of the United States Postal Service, First Class postage prepaid affixed therero, addressed to the attorneys for Opposer, as follows:

Scott W. Johnston, Esq.  
Merchant & Gould P.C.  
P.O. Box 2910  
Minneapolis, MN 55402-9944

  
\_\_\_\_\_  
Holly Pekowsky

Dated: September 13, 2005  
New York, New York

321002.1