

ESTTA Tracking number: **ESTTA721088**

Filing date: **01/18/2016**

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

Proceeding.	92062793
Applicant	Defendant Affordable Naturals, LLC
Other Party	Plaintiff NutraMarks, Inc.
Have the parties held their discovery conference as required under Trademark Rules 2.120(a)(1) and (a)(2)?	Yes

### **Motion for Suspension in View of Civil Proceeding With Consent**

The parties are engaged in a civil action which may have a bearing on this proceeding. Accordingly, Affordable Naturals, LLC hereby requests suspension of this proceeding pending a final determination of the civil action. Trademark Rule 2.117.

Affordable Naturals, LLC has secured the express consent of all other parties to this proceeding for the suspension and resetting of dates requested herein.

Affordable Naturals, LLC has provided an e-mail address herewith for itself and for the opposing party so that any order on this motion may be issued electronically by the Board.

### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Respectfully submitted,

/Carl E. Christensen/

Carl E. Christensen

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01/18/2016

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

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In the matter of Registration No.: 3,935,337	§	
Mark: SIMPLY	§	
	§	
Registration Date: Mar. 22, 2011	§	Cancellation No. 92062793
	§	
NutraMarks, Inc.,	§	
	§	
Petitioner,	§	
	§	
v.	§	
	§	
Affordable Naturals, LLC,	§	
	§	
Respondent.	§	
	§	

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**STIPULATION TO SUSPEND PROCEEDING PENDING DISPOSITION OF RELATED  
CIVIL ACTION (TRADEMARK RULE 2.117(a) & (c))**

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Pursuant to TTAB Rule §§ 2.117(a), (c), and TBMP § 501.03, the Parties hereby agree and stipulate, for good cause, to suspend the above-captioned Cancellation Proceeding, and to stay the time for Affordable Naturals, LLC to Answer Petitioner NutraMarks, Inc.’s Cancellation, pending the disposition of a related civil action in the United States District Court for the District of Utah. *See Nutraceutical Corp, et al. v. Affordable Naturals, LLC*, No. 2:14- CV-00907-JNP-PMW (the “Related Litigation”). On February 10, 2015, the Trademark Trial and Appeal Board also suspended a related Opposition Proceeding (No. 91218720) pending resolution of the Related Litigation (“Suspended Opposition”).

The instant Cancellation runs parallel with both the Related Litigation and the Suspended Opposition. This Cancellation involves the same parties, the same trademarks, and the same

issues—including the question of likelihood of confusion and seniority—as the Related Litigation and the Suspended Opposition.

Because the Related Litigation is ongoing and likely to have a bearing on the legal issues raised in Petitioner’s Cancellation, the Parties hereby stipulate and agree to suspend this matter pending resolution of the Related Litigation. Upon resolution of the Related Litigation, either party can move to reinstate this Cancellation, and the parties reserve their rights to so move, or to oppose such a motion. In the event this Cancellation be reinstated, however, the parties agree that Respondent Affordable Naturals shall have no less than forty (40) days from the date of reinstatement to Answer Petitioner’s Cancellation.

Respectfully submitted,

**CHRISTENSEN LAW OFFICE PLLC**

Dated: January 18, 2016

/s/ Carl E. Christensen  
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ATTORNEYS FOR RESPONDENT  
Affordable Naturals, LLC

**HOLLAND & HART, LLP**

Dated: January 18, 2016

/s/ Emily J. Cooper  
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ATTORNEYS FOR PETITIONER  
NutraMarks, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Stipulation to Extend Affordable Naturals, LLC's Time to Answer has been served on January 18, 2016, to the following by U.S. First Class Mail, postage prepaid:

Emily J. Cooper  
1800 Broadway  
Suite 300  
Boulder, Colorado 80302-5234

and by e-mail to: *ejcooper@hollandhart.com*

/s/ Carl E. Christensen  
Carl E. Christensen (MN #350412)