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

Proceeding	94001242
Party	Applicant THE HARRIS SOUP COMPANY, INC.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Serial No. 74673508, and  
Registration Nos. 1,854,765 and 1,929,015

The Harris Soup Company,

Applicant,

v.

Whole Foods Market IP, L.P.,

Registrant.

Concurrent Use No. 94001242

**STIPULATED MOTION FOR SUSPENSION OF PROCEEDINGS**

Pursuant to 37 C.F.R. §§ 2.117(c) and 2.127(d), the parties jointly request the Trademark Trial and Appeal Board (“TTAB”) to suspend this proceeding pending the decision of the TTAB on the parties’ Stipulated Motion for Dismissal of Proceedings and Remand or Other Disposition filed July 12, 2006 (“Joint Motion to Dismiss”).

37 C.F.R. § 2.127(d) states:

When any party files a motion to dismiss, or a motion for judgment on the pleadings, or a motion for summary judgment, or any other motion which is potentially dispositive of a proceeding, the case will be suspended by the Trademark Trial and Appeal Board with respect to all matters not germane to the motion and no party should file any paper which is not germane to the motion except as otherwise specified in the Board’s suspension order. If the case is not disposed of as a result of the motion, proceedings will be resumed pursuant to an order of the Board when the motion is decided.

37 C.F.R. 2.117(c) provides further:

(c) Proceedings may also be suspended, for good cause, upon motion or a stipulation of the parties approved by the Board.

TTMP § 510.01 (“In General”) states in pertinent part:

Flowing from the Board’s inherent power to schedule disposition of the cases on its docket is the power to stay proceedings, which may be exercised by the Board upon its own initiative, upon motion, or upon stipulation of the parties approved by the Board.

The proceeding is currently in the discovery phase with discovery set to close August 8, 2006. However, the parties have not finished discovery. Rather than continually request extensions of time to complete discovery, the parties believe it will save time and expense and is in the interest of judicial economy to simply suspend the proceedings while discovery is still open. Since the parties' Joint Motion to Dismiss is a potentially dispositive motion, the parties may not need to complete discovery. If the motion turns out not to be dispositive, the case can be "unsuspended" and discovery completed at that time.

Favorable consideration of this Stipulated Motion by the TTAB is therefore solicited.

Respectfully submitted,

ESLER STEPHENS & BUCKLEY

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Date: 8/7/06

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Date: 8/7/06

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of **STIPULATED MOTION FOR SUSPENSION OF PROCEEDINGS** has been served on the following counsel of record by depositing a copy in the United States Mail, postage prepaid, on this 7<sup>th</sup> day of August, 2006:

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