

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: May 10, 2004

Cancellation No. 92041003

LA TAPATIA NORCAL, INC.

v.

LA TAPATIA TORTILLERIA, INC.

David Mermelstein, Attorney:

This proceeding was commenced on August 26, 2002. Trial dates were set and notice of the proceeding was sent to respondent on September 13, 2002. Shortly thereafter, on October 15, 2002, the parties filed a stipulation to suspend this proceeding in view of their settlement negotiations. The Board approved the stipulation to suspend, and this proceeding has been suspended ever since. Respondent has not filed an answer.

Now pending before the Board is the parties' fourth stipulated motion to suspend. As was the case with the previous motions, the parties recite minimal and conclusory allegations in support of their request.

A motion to suspend or extend will be granted upon a showing of good cause. However, "good cause" is a flexible concept, depending largely on the circumstances. What may suffice for an initial suspension (or two) may well not

constitute "good cause" for a subsequent request for the same relief.

By their current motion, the parties request an additional suspension of six months "from June 11, 2004." Given the paucity of the facts recited in support of the motion, the Board will grant the parties stipulation, to the extent that this proceeding will be suspended for **THREE MONTHS** from June 11, upon the schedule set out below.

The Board notes that the parties will, by the end of the suspension period, have had two years to resolve this matter. Because it is not believed that further extensions would be either useful or appropriate, it is highly unlikely that further suspensions or extensions will be granted, absent a showing of extraordinary and unexpected circumstances.¹ Unless the matter is sooner resolved by settlement, the Board expects the parties to expeditiously bring this proceeding to trial upon the schedule set out below.

Proceedings herein are suspended until September 11, 2004, subject to the right of either party to earlier

¹ Any further request to suspend or extend trial dates must be accompanied - at a minimum - by a written report, signed by both parties, informing the Board of (1) how the parties have used the time previously allotted for settlement (including dates and times when the parties have met, conversed, or corresponded regarding settlement); (2) a list of the issues which have been resolved and which remain for trial; and (3) a *firm* timetable for the resolution of this matter. The parties should note, however, that it is unlikely that further such motions will be granted and that if denied, dates may remain as set.

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request resumption. Upon the conclusion of the suspension period, proceedings shall resume without further notice or order from the Board as follows:

The parties are allowed THIRTY DAYS from the resumption of proceedings in order to serve responses to any outstanding discovery requests. Respondent is allowed the same THIRTY DAYS in which to answer the petition for cancellation. Trial dates, including the close of discovery, are reset as follows:

Proceedings Resume	September 11, 2004
DISCOVERY PERIOD TO CLOSE:	January 9, 2005
Thirty-day testimony period for party in position of plaintiff to close:	April 9, 2005
Thirty-day testimony period for party in position of defendant to close:	June 8, 2005
Fifteen-day rebuttal testimony period to close:	July 23, 2005

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125. Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

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