

CERTIFICATE OF SERVICE

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to Commissioner for Trademarks, BOX TTAB NO FEE, P.O. Box 1451, Alexandria VA 22313-2451 on May 20, 2005.

Signed BC Dunne  
B.C. Dunne

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

Registration: No. 2,092,391  
Date of Issue: September 2, 1997  
Mark: LA TAPATIA

LA TAPATIA NORCAL, INC.,  
Petitioner,  
vs.  
LA TAPATIA TORTILLERIA, INC.  
Registrant.

) Cancellation No. 92041003

) **STIPULATED MOTION TO SUSPEND  
CANCELLATION PROCEEDING**

Petitioner, LA TAPATIA NORCAL, INC., files this stipulated motion to further suspend this proceeding for the following reasons:

1. The parties have engaged in negotiations to settle all disputes concerning trademarks including this cancellation proceeding.
2. Although the parties have agreed on settlement terms, they need additional time to perform and complete the terms of the settlement agreement.
3. This cancellation proceeding is part of a very complex settlement between the parties involving new concurrent use applications filed by both parties, restriction of prior registrations owned by Registrant and the assignment of rights in a specific geographic territory by the Registrant to the Petitioner.
4. This cancellation proceeding was filed because the settlement agreement was not

1 completed prior to the date when Registrant's registrations became incontestable and, therefore,  
2 was necessary to protect Petitioner's rights. When the pending applications are approved and  
3 concurrent use registrations issued, this proceeding will be dismissed.

4 5. As of this date, Application Serial Nos. 76/515,435 and 76/515,436 of Petitioner  
5 have been published for opposition, and it is expected that concurrent use proceedings will be  
6 commenced within the next few months.

7 6. Petitioner cannot dismiss the cancellation proceeding at this time because the  
8 Registrant's registration would become incontestable and beyond challenge in the event that  
9 Petitioner's applications are rejected and the settlement of the parties cannot be fully  
10 implemented.

11 7. Under the circumstances, there is no reason to litigate and, thus, no reason to  
12 activate this proceeding unless the pending applications are rejected. In that event, Petitioner  
13 will not obtain its rights in a specific geographic territory without cancellation of the Registrant's  
14 registration.

15 Under the circumstances, the parties request that this proceeding be suspended for an  
16 additional period of six (6) months from June 21, 2005.

17  
18 Dated: July 20, 2005

Respectfully submitted,

OWEN, WICKERSHAM & ERICKSON, P.C.

19  
20  
21 By Melville Owen  
22 Melville Owen

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24 San Francisco, California 94105  
25 (415) 882-3200

Attorneys for Petitioner, La Tapatia Norcal, Inc.

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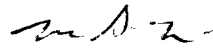
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Registrant consents to this motion to suspend this proceeding.

KIMBLE, MACMICHAEL & UPTON

Dated: May 17, 2005

By   
Mark D. Miller

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(559) 435-5500

Attorneys for Registrant, La Tapatia Tortilleria, Inc.

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing STIPULATED MOTION TO SUSPEND CANCELLATION PROCEEDING was sent to attorneys for Registrant by first class mail, postage prepaid, to the following address:

Mark D. Miller, Esq.  
Kimble, MacMichael & Upton  
Fig Garden Financial Center  
5260 North Palm, Suite 221  
Fresno, California 93704

DATED: May 20, 2005

  
B.C. Dunne

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