

TTAB

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February 22, 2006

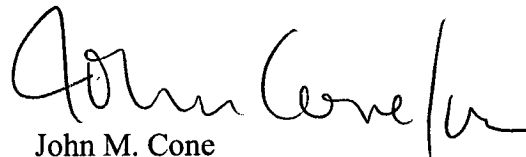
Commissioner for Trademarks  
BOX TTAB – N  
P. O. Box 1451  
Alexandria, VA 22304-1451

Re: *La Tapatia Norcal, Inc. v. La Tapatia Tortilleria, Inc.*; Concurrent Use  
Proceeding No. 94041003, re Registration No. 2,092,391 LA TAPATIA  
Our Reference No.: 014079.0008 (84115)

Dear Sirs:

Enclosed for filing is an original and one copy of Stipulated Motion to Suspend  
Cancellation Proceedings Pending Outcome of Concurrent Use Proceedings.

Best regards,



John M. Cone

JMC/vm  
Enclosures

cc: Mark Miller



02-28-2006

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #30

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

\* \* \*

In the Matter of:  
Registration No. 2,092,391

LA TAPATIA NORCAL, INC.	)	Cancellation No. 92041003
	)	
Petitioner,	)	
	)	
v.	)	<b>STIPULATED MOTION TO</b>
	)	<b>SUSPEND CANCELLATION</b>
LA TAPATIA TORTILLERIA, INC	)	<b>PROCEEDINGS PENDING</b>
	)	<b>OUTCOME OF CONCURRENT</b>
Registrant/Respondent	)	<b>USE PROCEEDINGS</b>
<hr/>		

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P.O. Box 1451  
Alexandria, Virginia 22313-1451

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

1. The parties have engaged in negotiations to settle all disputes concerning trademarks including the registration that is the subject of this cancellation proceeding.
2. Among other things, both parties have filed concurrent use applications with the U.S. Patent and Trademark Office, and both parties have consented to concurrent use of the respective marks, the parties having agreed upon a geographic boundary that is identified in the concurrent use proceedings.
3. A total of six Concurrent Use applications are presently pending before the TTAB, two of which were filed by Petitioner, and four of which were filed by Respondent, as set forth below:

<u>Application No.</u>	<u>Filed By</u>	<u>Status</u>	<u>Concurrent Use No.</u>
76/515,435	Petitioner	Published 2/22/05	(none yet)
76/515,436	Petitioner	Published 2/22/05	(none yet)
76/510,072	Respondent	Published 6/15/2004	94-002,111
76/510,073	Respondent	Published 6/15/2004	94-002,121
76/511,983	Respondent	Published 5/4/2004	94-002,108
76/625,200	Respondent	Published 9/20/2005	(none yet)

4. The parties have agreed on settlement terms, but additional time is needed to initiate and thereafter complete all six concurrent use proceedings in order for the parties to perform and complete the terms of the settlement agreement.

5. This cancellation proceeding is part of a 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. Completion of the concurrent proceedings as envisioned by the parties will allow this proceeding to be dismissed.

6. Petitioner cannot dismiss the cancellation proceeding lest the Registrant's registration become incontestable and beyond challenge in the event that Petitioner's applications are rejected and the settlement of the parties cannot be fully implemented.

7. Under the circumstances, there is no reason to litigate and, thus, no reason to activate this proceeding unless the pending applications are rejected.


8. The parties realize that this proceeding is a part of an unusual and complex settlement agreement which has been executed by the parties. However, the parties are not

aware of any other way to protect Petitioner's rights during the prosecution of the concurrent use applications.

9. Under the circumstances, the parties request that this proceeding be suspended pending the resolution of all six of the concurrent use proceedings related to the six trademark applications identified above.

Dated: February 17, 2006.

Respectfully Submitted,

By  \_\_\_\_\_

JOHN M. CONE  
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Dallas, Texas 75201

Attorneys for Petitioner  
La Tapatia Norcal, Inc.

Registrant consents to this motion to suspend this proceeding.

Dated: February 17, 2006.

By  \_\_\_\_\_

MARK D. MILLER  
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(559) 435-5500

Attorneys for Respondent  
La Tapatia Tortilleria, Inc.

**Certificate of Mailing 37 CFR § 2.197**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to:

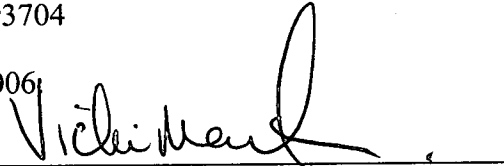
Commissioner for Trademarks  
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and

MARK D. MILLER  
Kimble, MacMichael & Upton  
5260 N. Palm Ave., Suite 221  
Fresno, California 93704

on February 22, 2006:

Signed: \_\_\_\_\_

  
~~Pamela House~~

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