ESTTA Tracking number: **ESTTA401983**

Filing date: **04/05/2011**

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

Proceeding	91189023
Party	Defendant Sarkis Avakian
Correspondence Address	SHERYL KOVAL GARKO GOODWIN PROCTER LLP 53 STATE STREET, EXCHANGE PLACE BOSTON, MA 02109-2881 UNITED STATES sgarko@goodwinprocter.com, tmadmin@goodwinprocter.com
Submission	Defendant's Notice of Reliance
Filer's Name	Sheryl Koval Garko
Filer's e-mail	sgarko@goodwinprocter.com, rfazio@goodwinprocter.com, tmadmin@goodwinprocter.com
Signature	/Sheryl Koval Garko/
Date	04/05/2011
Attachments	Exhibit A Part 2.pdf (100 pages)(2421313 bytes) Exhibit A Part 3.pdf (100 pages)(2436631 bytes) Exhibit A Part 4.pdf (122 pages)(3249876 bytes) Exhibit B.pdf (11 pages)(262537 bytes) Exhibit C.pdf (12 pages)(205239 bytes) Exhibit D.pdf (9 pages)(155953 bytes) Exhibit E.pdf (4 pages)(79113 bytes) Exhibit F Part 1.pdf (44 pages)(4684593 bytes) Exhibit F Part 2.pdf (44 pages)(4823252 bytes) Exhibit G Part 1.pdf (94 pages)(2713932 bytes) Exhibit G Part 2.pdf (96 pages)(2731785 bytes) Exhibit H Part 1.pdf (33 pages)(883521 bytes) Exhibit H Part 2.pdf (28 pages)(813059 bytes) Exhibit I.pdf (1 page)(513098 bytes) Exhibit A Part 1.pdf (100 pages)(2183260 bytes) NOR1.pdf (17 pages)(631935 bytes)

Int. Cl.: 16

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38 and 50

Reg. No. 2,519,854

Registered Dec. 18, 2001

United States Patent and Trademark Office

TRADEMARK
PRINCIPAL REGISTER

WHATACOMIX

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE, SUITE 900
WILMINGTON, DE 19801

FOR: COMIC BOOKS AND CHILDREN'S ACTIVITY BOOKS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

SER. NO. 76-188,399, FILED 1-2-2001.

EDWARD TIMBERLAKE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 2,534,527

Registered Jan. 29, 2002

SERVICE MARK
PRINCIPAL REGISTER

WHATAPLACE! WHATATASTE!

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 10-11-1998; IN COMMERCE 10-11-1998.

SN 75-657,290, FILED 3-10-1999.

JASON TURNER, EXAMINING ATTORNEY

Int. Cl.: 36

Prior U.S. Cls.: 100, 101, and 102

United States Patent and Trademark Office

Reg. No. 2,757,109

Registered Aug. 26, 2003

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE
SUITE 900
WILMINGTON, DE 19801

FOR: CHARITABLE FUNDRAISING SERVICES, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-5-2001; IN COMMERCE 10-5-2001.

SN 76-332,382, FILED 10-31-2001.

RUSS HERMAN, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 2,846,139

United States Patent and Trademark Office

Registered May 25, 2004

TRADEMARK
PRINCIPAL REGISTER

WHATABLENDERS

WHATAPARTNERSHIP, L.P.. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE
SUITE 900
WILMINGTON, DE 19801

FOR: MILK SHAKE DRINKS, BASES FOR MILK SHAKE DRINKS AND CANDY FLAVORED TOPPINGS THEREFOR, IN CLASS 30 (U.S. CL. 46).

FIRST USE 9-4-2002; IN COMMERCE 11-4-2002.

OWNER OF U.S. REG. NOS. 1,116,918, 2,409,945, AND OTHERS.

SN 76-473,190, FILED 12-6-2002.

DAWN FELDMAN, EXAMINING ATTORNEY

TTAB

Law Office of Suzanne C. Cummings
114 Harwich Road
Brewster, MA 02631
508.896.8008 (office)
617.249.1674 (fax)

September 21, 2005

United States Patent & Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Re: Whatpartnership, L.P. v. Halbro, LLC,
Opposition No. 91166232
Serial No. 76579951

Dear Sir or Madam:

Attached please find the Answer of Applicant Halbro, LLC in the above-captioned inter partes proceeding.

If you have any questions, please call.

Very truly yours,

Lindsey M. Straus, Esq.

cc: J. Timothy Hobbs, Esq.

09-23-2005
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #30

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

WHATAPARTNERSHIHP, L.P. Opposer V. HALBRO, LLC Applicant	OPPOSITION NO. 91166232

ANSWER

Halbro, LLC ("Applicant") answers the Opposition of the Opposer, Whatapartnership, L.P. ("Opposer"), as follows

1. The Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 1 of the Opposition.

2. The Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 2 of the Opposition.

3. The Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 3 of the Opposition.

4. The Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 4 of the Opposition.

5. The Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 5 of the Opposition.

6. The Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 6 of the Opposition.

7. The Applicant admits that attached to the Opposition as Exhibit A are what appear to be service mark and trademark registrations as described in Paragraph 7 (a) through (r). Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of Paragraph 7 of the Opposition.

8. The Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 8 of the Opposition.

9. The Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 9 of the Opposition.

10. The Applicant admits the allegations of Paragraph 10 of the Opposition.

11. The Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 11 of the Opposition.

12. The Applicant denies the allegations of Paragraph 12 of the Opposition.

13. The Applicant denies the allegations of Paragraph 13 of the Opposition.

14. The Applicant denies the allegations of Paragraph 14 of the Opposition.

WHEREFORE, Applicant prays that the Opposition be denied and that Applicant's proposed mark be granted registration.

This Answer is being filed by the undersigned attorney, duly authorized to represent Applicant in this proceeding.

HALBRO, LLC
By its attorney,

Lindsey Marie Straus, Esquire
Law Office of Suzanne C. Cummings
114 Harwich Road
Brewster, MA 02631
(508) 896-8008

Dated: September 21, 2005

CERTIFICATE OF SERVICE

I, Lindsey M. Straus, hereby certify that on this date I served the above-captioned Answer by mailing a copy, postage pre-paid, via First Class Mail to J. Timothy Hobbs, Wiley Rein & Fielding LLP, 1176 K Street, N.W., Washington, D.C. 2006.

Dated: September 21, 2005

Lindsey Marie Straus, Esq.

TTAB

LAW OFFICES OF
SUZANNE C. CUMMINGS
& ASSOCIATES, P.C.

FRANCHISE LAW & BUSINESS ADVISORS

TWO MAIN STREET, SUITE 300
STONEHAM, MASSACHUSETTS 02180
Internet: SCummingsLaw.com

Telephone: 781. 481. 9090
Toll-Free: 800. 982. 9636
Facsimile: 781. 481. 9191

SUZANNE C. CUMMINGS
Of Counsel:
CHERI L. CROW
ANGELA L. SAINDON
LINDSEY M. STRAUS

September 28, 2007

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

Re: Opposition No. 91166232
Serial No. 76/579,951

Dear Sir or Madam:

Enclosed please find the following:

1. Assented-To Motion To Amend Application and Suspend Proceedings; and
2. Applicant's Memorandum In Support of Motion To Amend Application.

If you have any questions or concerns, please contact me at (508) 896-8008 or via e-mail at lstraus@scummingslaw.com.

Thank you for your attention to this matter.

Sincerely,

Lindsey M. Straus, Esq.

cc: Suzanne C. Cummings, Esq.
Mr. Mark Halpin

10-03-2007

U.S. Patent & TMOfc/TM Mail Rcpt Dt #34

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

WHATAPARTNERSHIP, L.P. Opposer V. HALBRO, LLC Applicant	OPPOSITION NO. 91166232 SERIAL NO. 76/579,951

ASSENTED-TO MOTION TO AMEND APPLICATION AND SUSPEND PROCEEDINGS

Halbro, LLC ("Applicant") moves, pursuant to TBMP §§ 514.01 and 514.02, and 37 C.F.R. §2.133(a), with the consent of the Opposer, Whatapartnership, L.P. ("Opposer"), to amend its application for registration of a composite mark under Serial No. 76/579,951 by deleting the word "What" after the ellipsis and substituting the contraction "That's" with the remainder of the original mark unchanged. The proposed amended mark and a specimen of the amended mark as used in commerce are attached as **Exhibits A** and **B** respectively. In addition, Applicant requests, pursuant to TBMP §510.03(a), that the TTAB suspend proceedings under the Opposition while it considers Applicant's motion, which, if granted, will be dispositive of this proceeding. The grounds for the proposed amendment are set forth in the attached Memorandum of Law.

WHEREFORE, Applicant respectfully requests that the TTAB grant its motion to amend its application under Serial No. 76/579,951 and suspend this proceeding while such motion is under consideration by the Board.

HALBRO, LLC
By its attorney,

Lindsey Marie Straus, Esquire
Law Office of Suzanne C. Cummings & Associates, P.C.
114 Harwich Road
Brewster, MA 02631
(508) 896-8008

Dated: Sept 28, 2007

ASSENTED TO:

WHATAPARTNERSHIP, L.P.
By its attorney,

Christopher Kelly, Esquire CMS
Wiley Rein LLP
1776 K Street NW
Washington, DC 2006
(202) 719-7115

Dated: September 28, 2007

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

WHATAPARTNERSHIP, L.P. Opposer V. HALBRO, LLC Applicant	OPPOSITION NO. 91166232 SERIAL NO. 76/579,951

APPLICANT'S MEMORANDUM IN SUPPORT OF MOTION TO AMEND APPLICATION

I. NATURE AND STATUS OF PROCEEDINGS

Applicant, Halbro, LLC ("Applicant"), has applied for registration of a composite mark (Serial No. 76, 579,951) for restaurant and take-out food services in International Class 43, with the mark consisting of the words "The 'Wow! ... What a Sub!!' Boyz Subs and Steaks" and design ("original mark"). The original mark was published for purposes of opposition in the Official Gazette of the U.S. Patent and Trademark Office dated June 28, 2005.

On August 5, 2005, WhataPartnership, L.P. ("Opposer"), filed a Notice of Opposition in which it opposed registration on the grounds that the original mark for which Applicant sought registration was, because of the inclusion of the phrase "What A," confusingly similar to Opposer's WHATABURGER and family of WHATA registered marks.

Since that time, Applicant and Opposer have conducted discovery, and more recently, have engaged in settlement discussions pursuant to which Applicant, with the consent of the Opposer, has elected to move this Board for permission to amend its application to seek registration of a mark consisting of the words "The 'Wow! ... That's a Sub!!' Boyz Subs and

Steaks," in order to eliminate the likelihood of confusion with Opposer's mark, and, in support of this motion, has submitted a new drawing (**Exhibit A** to Applicant's motion) and a new in-use specimen (**Exhibit B** to Applicant's motion).

For the reasons stated below, Applicant contends that the amended mark qualifies for registration under 37 C.F.R. §2.72(a) and the amendment should be approved by this Board.

II. ARGUMENT

A. AMENDMENT IS PERMITTED UNDER 37 C.F.R. §2.133

1. Applicant has obtained the consent of Opposer.

TBMP §514.01 provides in pertinent part that, "[t]he amendment of any application ... which is the subject of an inter parties proceeding before the Board is governed by 37 C.F.R. §2.133.

37 C.F.R. §2.133 provides in pertinent part that:

> (a) An application subject to an opposition may not be amended in substance ... with the consent of the other party or parties and the approval of the Trademark Trial and Appeal Board ....

As shown on the motion, the Applicant has obtained the consent of the Opposer to the amendment.

2. Amendment of the original drawing of the mark is permitted under 37 C.F.R. §2.72(a) because it does not materially alter the mark.

In addition to obtaining the Opposer's consent, TBMP §514.01 provides that "[a] proposed amendment to any application ... which is the subject of an inter parties proceeding must also comply with all applicable rules and statutory provisions ... includ[ing] 37 C.F.R. §§2.71-2.75 in the case of a proposed amendment to an application. ..."

37 C.F.R. §2.72(a) provides in pertinent part as follows:

> (a) In an application based on use in commerce under section 1(a) of the Act, the applicant may amend the description or drawing of the mark only if:
>
> * * *
>
> (2) The proposed amendment does not materially alter the mark. The Office will determine whether a proposed amendment materially alters a mark by comparing the proposed amendment with the description or drawing of the mark filed with the original application.

As stated by this Board most recently in In re Who? Vision Systems, Inc., 57 USPQ2d 1211 (TTAB 2000):

> the test for determining whether an amendment is a material alteration [for purposes of §2.72(a)] was articulated in Visa Int'l Serv. Ass'n v. Life-Code Systems, Inc., 220 USPQ 740 (TTAB 1983):'The modified mark must contain what is the essence of the original mark, and the new form must create the impression of being essentially the same mark.' 220 USPQ at 743. 'That is, the new and old forms of the mark must create essentially the same commercial impression.' Id. at 1218, quoting In re Nationwide Indus. Inc., 6 USPQ 1882, 1885 (TTAB 1988).

The requirements for amendment under §2.72(a)(2) are met in this case because the amendment proposed by Applicant does not materially alter the mark:

The *only* difference between the two marks is that the contraction "That's" has replaced the word "What." Indeed, the two marks appear identical, and it would only be by close comparison of the two that the word substitution would even be apparent. A side-by-side comparison of the old and new mark reveals instantly that the overall design of the mark has not changed. Compare In re Dillard Department Stores, Inc., 33 USPQ2d 1052 (Comm'r Pats. 1993) (if a design is integrated into a mark and is a distinctive feature necessary for recognition of the mark, then a change in design would materially alter the mark; proposed deletion of highly

stylized display features of mark "IN.VEST.MENTS" held to be a material alteration); Ex parte Kadane-Brown, Inc., 79 USPQ 307 (Comm'r Pats. 1948)(proposed amendment of "Blue Bonnet" mark to delete a star design and to change the picture of the girl held a material alteration).

The commercial impression created by the original mark is that a customer will be so impressed when she bites into one of the Applicant's subs that she will exclaim "Wow! ... What a Sub!!" The exclamatory language is clearly meant to give the impression that The Boyz's subs are the best anyone has ever eaten and are so far superior to other subs that, when one is consumed for the first time, it is as if a sub is being tasted for the very first time.

The commercial impression of the new mark is exactly the same: that subs made by The Boyz will prompt a customer to be so impressed upon eating one that she will exclaim, "Wow! ... That's a Sub!!" The substitution of "That's" for "What" does nothing to alter the commercial impression of the mark. Compare In re Who?, 57 USPQ2d at 1218 (amendment rejected where words "Tactilesense" and "Tacilesense" have "distinctly different commercial impressions"). Any difference from using the word "That" instead of "What," when referring to the word "Sub," is negligible. See In re Finlay Fine Jewelry Corp., 41 USPQ2d 1152 (TTAB 1996)("NEW YORK JEWELRY OUTLET" not a material alteration of "NY JEWELRY OUTLET"); In re Larios, S.A., 35 USPQ2d 1214 (TTAB 1995) ("VINO DE MALAGA LARIOS" and design not a material alteration of "GRAN VINO MALAGA LARIOS" with similar design). Because the old and new mark's meaning or connotation are identical, the new mark does not materially alter the old mark. See In re Finlay Fine Jewelry, 41 USPQ2d at 1154 ("NEW YORK" and "NY" interchangeable and create the same commercial impression despite being visually and phonetically different); compare In re Who?, 57 USPQ2d at 1217 ("The phonetic dissimilarities between the two terms, as well as their obviously dissimilar meanings or

connotations, preclude any finding that the two terms create essentially the same commercial impression.").

Because the two marks are virtually identical, and because the words "What" and "That" are generic, republication of the amended mark will not be necessary to give fair notice to third parties. See In re Vienna Sausage Mfg. Co., 16 USPQ2d 2044, 2047 (TTAB 1990)("The question of whether a new search is necessitated by the amendment is a factor to be considered but is not the determining element of whether or not to accept the amendment.").

This case is virtually on all fours with In re Larios. Like the amendment allowed by the Board in that case, "given the manner in which [the words "What" and "That"] are used in the overall design schemes of the respective marks, including the identity in both their relative size and their arrangement immediately [after] ...the word [Wow! and before the words "a Sub!"], ... substituting [That's] for [What] changes nothing of trademark significant. The *modified* mark [The "Wow! ... That's a Sub!!" Boyz Subs and Steaks] and design still contains the essence of the mark [The "Wow! What a Sub!!" Boyz Subs and Steaks] and design, and creates the impression of being essentially the same mark." 35 USPQ2d at 1218.

III. CONCLUSION

For the reasons stated above, Applicant Halbro, Inc., respectfully requests this Board grant its assented-to motion to amend its application under Serial No. 76/579,951 to replace the original drawing and specimen with the amended drawing and new specimen attached as **Exhibits A** and **B** to its motion.

HALBRO, LLC
By its attorney,

Lindsey Marie Straus, Esquire
Law Office of Suzanne C. Cummings
114 Harwich Road
Brewster, MA 02631
(508) 896-8008

Dated: September 28, 2007

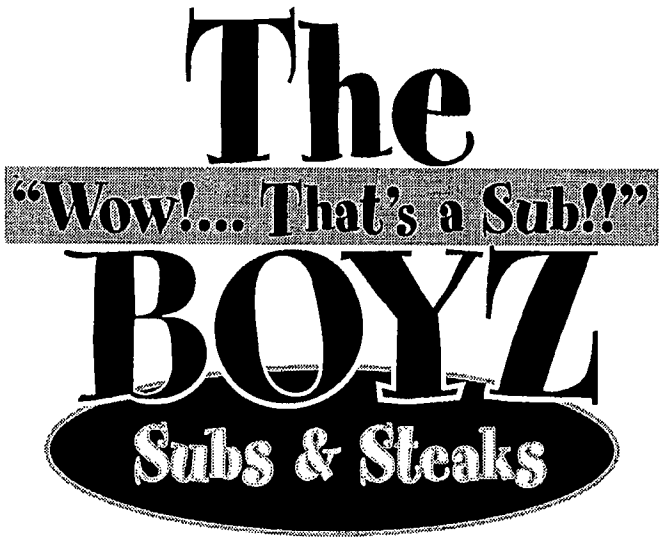
CERTIFICATE OF SERVICE

I, Lindsey M. Straus, hereby certify that on this date I served the above-captioned Answer by mailing a copy, postage pre-paid, via First Class Mail to Christopher Kelly, Wiley Rein LLP, 1176 K Street, N.W., Washington, D.C. 20006.

Dated: September 28, 2007

Lindsey Marie Straus, Esq.

Exhibit A



Beverages

[redacted]

Small 1.19 Large 1.79

SNAPPLE
ICED TEA
$1.37
STEWART'S
ROOT BEER
$1.37

Coffee 75¢
Hot Tea 65¢

Salad

"All Salads Served on top of Fresh Lettuce, Tomato & Onions"

Veggie Salad (with Dressing) $4.55
Seafood/Shrimp Salad $5.65
Tuna Salad (Homemade) $5.95
Chicken Salad $5.85
Egg Salad $5.05

All Salads available as Subs or on Fresh Pita Bread

Try Our
"SUB-IN-A TUB"
The Contents of any Cold Sub Without the Bread
*Same Price as the Sub

Whole Pickle ..... $.75

Fried Items

Chicken Wings

7 ..... $4.90 14 ..... $9.80
Optional ..... Blue Cheese Dressing, Hot Sauce, BBQ, Honeymustard

Chicken Breast Tenders

5 ..... $5.35 10 ..... $10.70
Optional ..... Honeymustard, BBQ Sauce, Hot Sauce

French Fries ordered with wings or tenders ..... Add $1.25

MOZZARELLA STIX
3 pc. ..... $2.80 6 pc. $5.35

FRIES
French Fries ... $1.75 Cheese Fries ... $2.35
Pizza Fries ... $2.95

Homemade Soup

Soup Of The Day

Small 12 oz. $2.50
Large 16 oz. $2.95

Salads

Potato - Macaroni - Cole Slaw

Mini 3 oz. 35¢
Small 10 oz. 95¢
Large 20 oz. $1.85

Party Subs & Trays!!

Planning a Party? **CALL FOR PRICES**

The
"Wow!... That's a Sub!!"
BOYZ
Subs & Steaks

Springdale Plaza

(Springdale & Greentree Roads) **Cherry Hill NJ 08003**

(856) 751-3434

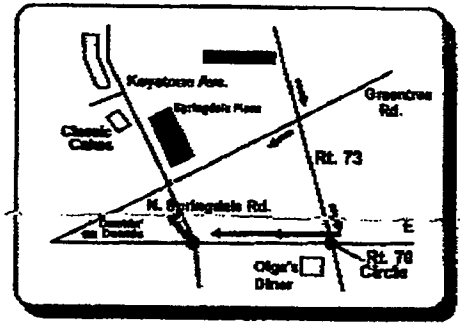
"Fax us your order" **751-3456**

"Wow!... That's a Sub!!"

Franchises Available www.wowsubboyz.com

Monday - Friday
10:00 AM- 4:00 PM

Saturday
Sunday
Closed



VISA

TTAB

LAW OFFICES OF
SUZANNE C. CUMMINGS
& ASSOCIATES, P.C.

FRANCHISE LAW & BUSINESS ADVISORS

TWO MAIN STREET, SUITE 300
STONEHAM, MASSACHUSETTS 02180
Internet: SCummingsLaw.com

Telephone: 781. 481. 9090
Toll-Free: 800. 982. 9636
Facsimile: 781. 481. 9191

SUZANNE C. CUMMINGS
Of Counsel:
CHERI L. CROW
ANGELA L. SAINDON
LINDSEY M. STRAUS

November 7, 2007

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

Re: Opposition No. 91166232
Serial No. 76/579,951

Dear Sir or Madam:

Enclosed please find Applicant's Second Assented-To Motion To Amend Application and Suspend Proceedings.

If you have any questions or concerns, please contact me at (508) 896-8008 or via e-mail at lstraus@scummingslaw.com.

Thank you for your attention to this matter.

Sincerely,

Lindsey M. Straus, Esq.

cc: Suzanne C. Cummings, Esq.
Mr. Mark Halpin
Christopher Kelly, Esq.

[redacted]
11-09-2007

U.S. Patent & TMOfc/TM Mail Rcpt Dt #

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

WHATAPARTNERSHIP, L.P. Opposer V. HALBRO, LLC Applicant	OPPOSITION NO. 91166232 SERIAL NO. 76/579,951

SECOND ASSENTED-TO MOTION TO AMEND APPLICATION AND SUSPEND PROCEEDINGS

Halbro, LLC ("Applicant") moves, pursuant to TBMP §§ 514.01 and 514.02, TMEP §806.03(c), and 37 C.F.R. §2.133(a), and with the consent of the Opposer, Whatapartnership, L.P., to further amend its application for registration of a composite mark under Serial No. 76/579,951 to substitute §1(b) as the basis for registration. For its grounds, Applicant states that such amendment is appropriate under the circumstances because Applicant's original basis under §1(a) for registration of the amended mark (as submitted with Applicant's original Assented-To-Motion to Amend Application and Suspend Proceedings) fails because the amended mark was not in use in commerce when the application was filed.

In accordance with the requirements of 15 U.S.C. §1051(b)(3)(B) and 37 C.F.R. §§ 2.20 and 2.34(a)(2), Applicant attaches as **Exhibit A** the Declaration of Lindsey M. Straus stating that the Applicant has had a bona fide intention to use the mark in commerce on or in connection with the goods/services since the application filing date.

WHEREFORE, Applicant respectfully requests that the TTAB grant its motion to further amend its application under Serial No. 76/579,951 and suspend this proceeding while such motion is under consideration by the Board.

HALBRO, LLC
By its attorney,

Lindsey Marie Straus, Esquire
Law Office of Suzanne C. Cummings & Associates, P.C.
114 Harwich Road
Brewster, MA 02631
(508) 896-8008

Dated: November 7, 2007

ASSENTED TO:

WHATAPARTNERSHIP, L.P.
By its attorney,

Christopher Kelly, Esquire LMS
Wiley Rein LLP
1776 K Street NW
Washington, DC 20006
(202) 719-7115

Dated: November 7, 2007

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

WHATAPARTNERSHIP, L.P.
Opposer

V.

HALBRO, LLC
Applicant

OPPOSITION NO. 91166232
SERIAL NO. 76/579,951

DECLARATION OF BONA FIDE INTENT TO USE UNDER §1(b)

In accordance with the requirements of 37 C.F.R. §§ 2.20 and 2.34(a)(2), I hereby declare that, on information and belief, the Applicant had a bona fide intention to use the mark reflected in the proposed amendment in commerce on or in connection with the goods or services listed in the application as of the filing date of the application.

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of her own knowledge are true; and all statements made on information and belief are believed to be true.

Lindsey M. Straus, Attorney for Halbro, LLC

Dated: November 6, 2007

TTAB

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

WHATAPARTNERSHIP, L.P. Opposer, v. HALBRO, LLC. Applicant.	Opposition No. Serial No.: Mark:	91166232 76/579,951 THE "WOW! THAT'S A SUB!!" BOYZ SUBS & STEAKS & Design (as amended)

STIPULATED WITHDRAWAL OF OPPOSITION

NOW COMES Opposer, WhataPartnership, L.P. by and through undersigned counsel and with Applicant's consent, and hereby withdraws its Notice of Opposition in the above captioned matter.

Respectfully submitted,

WHATAPARTNERSHIP, L.P.

By: _____
J. Timothy Hobbs
Christopher Kelly
Jennifer Elgin
1776 K Street, N.W.
Washington, D.C. 20006
Attorneys for Opposer

Dated: 3/21/08

HALBRO, LLC

By: _____
Lindsey M. Straus
Law Offices of Suzanne C. Cummings & Associates
Two Main Street, Suite 300
Stoneham, MA 02180
Attorneys for Applicant

Dated: March 20, 2008

12811845.1

03-24-2008

U.S. Patent & TMOfc/TM Mail Rcpt Dt. #72

CERTIFICATE OF MAILING

I hereby certify that the Stipulated Withdrawal of Opposition is being deposited with the United States Postal Service on this 21st day of March, 2008 to the following:

Commissioner for Trademarks

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

Barbara N. Carlton

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

tdc

Mailed: March 27, 2008

Opposition No. 91166232

WhataPartnership, L.P.

v.

Halbro, LLC

In view of the stipulation filed March 24, 2008, the opposition is dismissed.

By the Trademark Trial and Appeal Board

NEWS FROM THE TTAB:

The USPTO published a notice of final rulemaking in the Federal Register on August 1, 2007, at 72 F.R. 42242. By this notice, various rules governing Trademark Trial and Appeal Board inter partes proceedings are amended. Certain amendments have an effective date of August 31, 2007, while most have an effective date of November 1, 2007. For further information, the parties are referred to a reprint of the final rule and a chart summarizing the affected rules, their changes, and effective dates, both viewable on the USPTO website via these web addresses:
http://www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf

http://www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf

By one rule change effective August 31, 2007, the Board's standard protective order is made applicable to all TTAB inter partes cases, whether already pending or commenced on or after that date. However, as explained in the final rule and chart, this change will not affect any case in which any protective order has already been approved or imposed by the Board. Further, as explained in the final rule, parties are free to agree to a substitute protective order or to supplement or amend the standard order even after August 31, 2007, subject to Board approval. The standard protective order can be viewed using the following web address: http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stndagmnt.htm

Exhibit A4

Trademark Trial and Appeal Board Electronic Filing System. http://estta.uspto.gov
ESTTA Tracking number: **ESTTA233169**
Filing date: **08/27/2008**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Whataburger Partnership
Granted to Date of previous extension	11/05/2008
Address	One Whataburger Way Corpus Christi, TX 78411 UNITED STATES

Attorney information	Christopher Kelly Wiley Rein LLP 1776 K Street, N.W. Washington, DC 20006 UNITED STATES ckelly@wileyrein.com Phone:202-719-7000

Applicant Information

Application No	77403811	Publication date	07/08/2008
Opposition Filing Date	08/27/2008	Opposition Period Ends	11/05/2008
Applicant	Mahaney, Christine J. 11815 Cedar Road Plainwell, MI 49080 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 2007/04/03 First Use In Commerce: 2007/04/03 All goods and services in the class are opposed, namely: Dog training

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	652137	Application Date	06/07/1954
Registration Date	09/24/1957	Foreign Priority Date	NONE
Word Mark	WHATABURGER		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class U046 (International Class 030). First use: First Use: 1950/01/01 First Use In Commerce: 1953/02/10 HAMBURGER SANDWICH

U.S. Registration No.	891082	Application Date	02/20/1968
Registration Date	05/12/1970	Foreign Priority Date	NONE
Word Mark	WHATABURGER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U100 (International Class 042). First use: First Use: 1950/01/01 First Use In Commerce: 1953/02/10 RESTAURANT SERVICES AND DRIVE IN RESTAURANT SERVICES		

U.S. Registration No.	1011927	Application Date	11/29/1972
Registration Date	05/27/1975	Foreign Priority Date	NONE
Word Mark	WHATABURGER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U045 (International Class 032). First use: First Use: 1972/07/18 First Use In Commerce: 1972/07/28 SOFT DRINKS Class U046 (International Class 029, 030). First use: First Use: 1972/07/18 First Use In Commerce: 1972/07/28 HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, [POTATO CHIPS, CORN CHIPS,] FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANKFURTER SANDWICHES Class U100 (International Class 042). First use: First Use: 1972/07/18 First Use In Commerce: 1972/07/28 RESTAURANT AND DRIVE-IN RESTAURANT SERVICES		

U.S. Registration No.	1011928	Application Date	11/29/1972
Registration Date	05/27/1975	Foreign Priority Date	NONE
Word Mark	W WHATABURGER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U045 (International Class 032). First use: First Use: 1972/07/18 First Use In Commerce: 1972/07/28 SOFT DRINKS Class U046 (International Class 029, 030). First use: First Use: 1972/07/18 First Use In Commerce: 1972/07/28 HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, [POTATO CHIPS, CORN CHIPS,] FRIED PIES, ONION RINGS, MALT AND		

	SHAKE BEVERAGES, AND FRANKFURTER SANDWICHES Class U100 (International Class 042). First use: First Use: 1972/07/28 First Use In Commerce: 1972/07/28 RESTAURANT AND DRIVE-IN RESTAURANT SERVICES

U.S. Registration No.	1014196	Application Date	11/26/1973
Registration Date	06/24/1975	Foreign Priority Date	NONE
Word Mark	WHATABURGER JR.		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1973/04/01 First Use In Commerce: 1973/08/29 PREPARED HAMBURGER SANDWICH FOR CONSUMPTION ON OR OFF THE PREMISES		

U.S. Registration No.	1116918	Application Date	01/20/1978
Registration Date	04/24/1979	Foreign Priority Date	NONE
Word Mark	WHATAMEAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1975/07/01 First Use In Commerce: 1975/07/01 PREPARED MEAL CONSISTING OF A HAMBURGER SANDWICH, FRENCH FRIES AND A BEVERAGE FOR CONSUMPTION ON OR OFF THE PREMISES		

U.S. Registration No.	1206344	Application Date	08/10/1979
Registration Date	08/24/1982	Foreign Priority Date	NONE
Word Mark	WHATACATCH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1978/10/14 First Use In Commerce: 1979/04/01 Breaded Fish Fillets Suitable for Fish Sandwiches Class 030. First use: First Use: 1978/10/14 First Use In Commerce: 1979/04/01 Prepared Fish Sandwich for Consumption On or Off the Premises		

U.S. Registration No.	2160285	Application Date	03/24/1997
Registration Date	05/26/1998	Foreign Priority Date	NONE
Word Mark	WHATACHICK'N		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 030. First use: First Use: 1984/01/01 First Use In Commerce: 1984/01/01 chicken sandwich

U.S. Registration No.	2335590	Application Date	04/05/1999
Registration Date	03/28/2000	Foreign Priority Date	NONE
Word Mark	WHATABURGER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1950/01/01 First Use In Commerce: 1953/02/10 restaurant services		

U.S. Registration No.	2372372	Application Date	03/05/1999
Registration Date	08/01/2000	Foreign Priority Date	NONE
Word Mark	WHATAKIDS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1998/11/00 First Use In Commerce: 1999/02/15 Clothing for children, namely, shirts, polo shirts, t-shirts, dresses, overalls, onesies, baseball caps and hats		

U.S. Registration No.	2418380	Application Date	05/06/1999
Registration Date	01/02/2001	Foreign Priority Date	NONE
Word Mark	WHATAGUY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 2000/01/01 First Use In Commerce: 2000/01/01 restaurant services		

U.S. Registration No.	2432191	Application Date	02/22/1999
Registration Date	02/27/2001	Foreign Priority Date	NONE
Word Mark	WHATAKIDS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1999/04/01 First Use In Commerce: 1999/04/01 restaurant services		

U.S. Registration	2519854	Application Date	01/02/2001

No.			
Registration Date	12/18/2001	Foreign Priority Date	NONE
Word Mark	WHATACOMIX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2000/01/01 First Use In Commerce: 2000/01/01 comic books and children's activity books		

U.S. Registration No.	2534527	Application Date	03/10/1999
Registration Date	01/29/2002	Foreign Priority Date	NONE
Word Mark	WHATAPLACE! WHATATASTE!		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1998/10/11 First Use In Commerce: 1998/10/11 restaurant services		

U.S. Registration No.	2757109	Application Date	10/31/2001
Registration Date	08/26/2003	Foreign Priority Date	NONE
Word Mark	WHATABURGER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2001/10/05 First Use In Commerce: 2001/10/05 Charitable fundraising services		

U.S. Registration No.	2846139	Application Date	12/06/2002
Registration Date	05/25/2004	Foreign Priority Date	NONE
Word Mark	WHATABLENDERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 2002/09/04 First Use In Commerce: 2002/11/04 milk shake drinks, bases for milk shake drinks and candy flavored toppings therefor		

U.S. Registration No.	3185230	Application Date	01/07/2005
Registration Date	12/19/2006	Foreign Priority Date	NONE
Word Mark	WHATASIZE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 043. First use: First Use: 1998/00/00 First Use In Commerce: 1998/00/00 Restaurant services featuring a prepared meal containing french fries and a soft drink for consumption on or off the premises

U.S. Registration No.	3188132	Application Date	03/31/2005
Registration Date	12/19/2006	Foreign Priority Date	NONE
Word Mark	WHATABURGER FIELD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2005/04/06 First Use In Commerce: 2005/04/06 providing stadium facilities for sporting events, exhibitions, conventions, community festival events and concerts		

U.S. Registration No.	3188136	Application Date	04/01/2005
Registration Date	12/19/2006	Foreign Priority Date	NONE
Word Mark	WHATABURGER FIELD CORPUS CHRISTI		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2005/04/06 First Use In Commerce: 2005/04/06 providing stadium facilities for sporting events, exhibitions, conventions, community festival events and concerts		

Related Proceedings	None

Attachments	71667794#TMSN.gif (1 page)(bytes) 72291496#TMSN.gif (1 page)(bytes) 72442464#TMSN.gif (1 page)(bytes) 72442465#TMSN.gif (1 page)(bytes) 75674147#TMSN.gif (1 page)(bytes) 75654525#TMSN.gif (1 page)(bytes) 75698642#TMSN.gif (1 page)(bytes) 75647561#TMSN.gif (1 page)(bytes) 76188399#TMSN.gif (1 page)(bytes) 75657290#TMSN.gif (1 page)(bytes) 76332382#TMSN.gif (1 page)(bytes) 76473190#TMSN.gif (1 page)(bytes) 76627124#TMSN.gif (1 page)(bytes) 78598999#TMSN.jpeg (1 page)(bytes) 78599894#TMSN.jpeg (1 page)(bytes) WHATADOG.PDF (28 pages)(798642 bytes)

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.

Signature	/Christopher Kelly/
Name	Christopher Kelly
Date	08/27/2008

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

WHATABURGER PARTNERSHIP	)	
	)	
Opposer,	)	
	)	Opposition No.: _____
v.	)	Mark: WHATADOG
	)	Ser. No.: 77/403,811
CHRISTINE J. MAHANEY	)	
	)	
Applicant.	)	

NOTICE OF OPPOSITION

Whataburger Partnership, a general partnership organized under the laws of Texas, with offices located at One Whataburger Way, Corpus Christi, Texas 78411, hereby opposes registration of application Ser. No. 77/403,811 – WHATADOG for "dog training" in International Class 41, filed February 22, 2008, by Christine J. Mahaney ("Applicant"), and published for purposes of opposition in the Official Gazette dated July 8, 2008. Whataburger Partnership will be damaged should the opposed application mature to registration. Whataburger Partnership puts forth the following grounds for opposition:

1. Whataburger Partnership is the owner of all right, title and interest in and to the trademarks and service marks pleaded in this Notice of Opposition and licenses said marks for use in connection with the WHATABURGER restaurant system (Whataburger Partnership and its licensees are collectively referred to as "Opposer").

2. Opposer operates over 600 restaurants under the WHATABURGER name.

3. Opposer, through its predecessors in interest, adopted and commenced use of the WHATABURGER name as a service mark for restaurants services in 1950 and has used the name continuously and without interruption to the present day.

4. Opposer uses the WHATABURGER name not only to identify its restaurant services, but also as a trademark to identify food products sold at its restaurants and elsewhere.

5. Opposer has developed a family of WHATA formative marks to identify its food products, and collateral products and services, such as printed materials, clothing and stadium services.

6. Based on Opposer's extensive, exclusive and continuous use of its WHATABURGER and WHATA formative marks in connection with restaurant services, food products and collateral goods, the name WHATABURGER and Opposer's other WHATA formative marks have come to be recognized among the consuming public as designators of origin with respect to said services and products.

7. Opposer is the owner of all right, title and interest in and to the following federal service mark and trademark registrations, which presently are valid and subsisting in law (photocopies are attached hereto as Exhibit A).

(a) Registration No. 652,137 – **WHATABURGER** for "hamburger sandwich," registered on the Principal Register September 24, 1957.

(b) Registration No. 891,082 – **WHATABURGER** for "restaurant services and drive in restaurant services," registered on the Principal Register May 12, 1970.

(c) Registration No. 1,011,927 – **WHATABURGER** for "hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches" and "restaurant and drive-in restaurant services," registered on the Principal Register on May 27, 1975.

(d) Registration No. 1,011,928 – **WHATABURGER & W Design** for "hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches" and "restaurant and drive-in restaurant services," registered on the Principal Register on May 27, 1975.

(e) Registration No. 1,014,196 – **WHATABURGER JR.** for "prepared hamburger sandwich for consumption on or off premises," registered on the Principal Register on June 24, 1975.

(f) Registration No. 1,116,918 – **WHATAMEAL** for "prepared meal consisting of a hamburger sandwich, french fries and a beverage for consumption on or off the premises," registered on the Principal Register April 24, 1979.

(g) Registration No. 1,206,344 – **WHATACATCH** for "breaded fish fillets suitable for fish sandwiches" and "prepared fish sandwich for consumption on or off the premises," registered on the Principal Register August 24, 1982.

(h) Registration No. 2,160,285 – **WHATACHICK'N** for "chicken sandwich," registered on the Principal Register May 26, 1998.

(i) Registration No. 2,335,590 – **WHATABURGER** for "restaurant services," registered on the Principal Register March 28, 2000.

(j) Registration No. 2,372,372 – **WHATAKIDS** for "clothing for children, namely, shirts, polo shirts, t-shirts, dresses, overalls, onesies, baseball caps and hats," registered on the Principal Register August 1, 2000.

(k) Registration No. 2,418,380 – **WHATAGUY** for "restaurant services," registered on the Principal Register January 2, 2000.

(l) Registration No. 2,432,191 – **WHATAKIDS** for "restaurant services," registered on the Principal Register February 27, 2001.

(m) Registration No. 2,519,854 – **WHATACOMIX** for "comic books and children's activity books," registered on the Principal Register December 18, 2001.

(n) Registration No. 2,534,527 – **WHATAPLACE! WHATATASTE!** for "restaurant services," registered on the Principal Register January 29, 2002.

(o) Registration No. 2,757,109 – **WHATABURGER** for "charitable fundraising services," registered on the Principal Register August 26, 2003.

(p) Registration No. 2,846,139 – **WHATABLENDERS** for "milk shake drinks, bases for milk shake drinks and candy flavored toppings," registered on the Principal Register May 25, 2004.

(q) Registration No. 3,185,230 – **WHATASIZE** for "restaurant services featuring a prepared meal containing french fries and a soft drink for consumption on or off the premises," registered on the Principal Register December 19, 2006.

(r) Registration No. 3,188,132 – **WHATABURGER FIELD** for "providing stadium facilities for sporting events, exhibitions, conventions, community festival events and concerts," registered on the Principal Register December 19, 2006.

(s) Registration No. 3,188,136 – **WHATABURGER FIELD & Design** for "providing stadium facilities for sporting events, exhibitions, conventions, community festival events and concerts," registered on the Principal Register December 19, 2006.

8. Many of Opposer's pleaded registrations are incontestable as to the products and services listed therein and are conclusive evidence of the validity of the registered marks, Opposer's ownership thereof, and of Opposer's exclusive right to use the marks in commerce on or in connection with the products and services identified in the registrations.

9. Opposer has continuing common law rights in its trademark WHATADOG for frankfurter sandwiches, which Opposer used beginning in 1962 and has not abandoned.

10. Opposer has invested substantial sums advertising and promoting the sale of its goods and services under its WHATABURGER and WHATA formative marks. By reason of Opposer's extensive, exclusive and continuous use of its WHATABURGER and WHATA formative marks, the relevant consuming public has come to recognize the WHATABURGER and WHATA formative marks as being used by Opposer and to associate and identify the WHATABURGER and WHATA formative marks with Opposer. Opposer has obtained and enjoys an exceedingly valuable reputation and goodwill symbolized by the WHATABURGER and WHATA formative marks.

11. Opposer's WHATABURGER and WHATA formative marks are entitled to a broad scope of protection against similar marks.

12. The constructive and actual dates of first use of Opposer's WHATABURGER and WHATA formative marks precede the filing date of, and dates of first use alleged in, the opposed application.

13. On information and belief, Applicant has adopted and commence use of the designation WHATADOG in connection with dog training services. The services recited in the opposed application are not restricted as to types of customers and channels of trade.

14. The designation WHATADOG so resembles Opposer's WHATABURGER and WHATA formative marks, including but not limited to Opposer's mark WHATADOG, in terms of appearance, sound, connotation and commercial impression as to be likely, when applied to Applicant's services, to cause confusion and mistake and to deceive.

15. The designation WHATADOG is confusingly similar to Opposer's WHATABURGER and WHATA formative marks so that registration of the designation would be inconsistent with and damaging to Opposer's exclusive and prior rights in its registered and common law marks in connection with the products and services with which they are used.

16. Any defect, objection or fault found with any service sold under the designation WHATADOG would injure the valuable reputation and goodwill Opposer has established for its products and services sold under its WHATABURGER and WHATA formative marks.

17. Opposer will be damaged by registration of Applicant's proposed designation.

WHEREFORE, Opposer prays that its opposition be sustained and that the opposed mark be denied registration.

This opposition is being filed by the undersigned attorneys at law, duly authorized to represent Opposer in this proceeding, pursuant to Trademark Rule 2.101(b).

Respectfully submitted,

WHATABURGER PARTNERSHIP

By: _____

J. Timothy Hobbs
Christopher Kelly
Jennifer L. Elgin
Wiley Rein LLP
1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000

Attorneys for Whataburger Partnership

Dated: August 27, 2008

12885603.1

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to TBMP 2.101(a), on this date I served the foregoing NOTICE OF OPPOSITION upon Applicant's counsel of record by causing a copy thereof to be deposited in the United States Mail, postage prepaid and addressed as follows:

R. Scott Keller, Esq.
Warner Norcross & Judd LLP
900 Fifth Third Center
111 Lyon St NW
Grand Rapids, MI 49503

The 27th day of August, 2008.

Christopher Kelly

EXHIBIT A

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 652,137

Registered Sep. 24, 1957

Renewal Term Begins Sep. 24, 1997

TRADEMARK
:PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY ASSIGNMENT, CHANGE OF NAME, CHANGE OF NAME, ASSIGNMENT AND MERGER WITH DOBSON, HARMON A. (UNITED STATES CITIZEN) CORPUS CHRISTIE, TX

FOR: HAMBURGER SANDWICH, IN CLASS 46 (INT. CL. 30).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

SER. NO. 71-667,794, FILED 6-7-1954.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on July 29, 1997.

Int. Cl.: 42

Prior U.S. Cl.: 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 891,082
Registered May 12, 1970
Renewal Approved Feb. 15, 1990

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, ASSIGNEE BY ASSIGNMENT, MERGER AND CHANGES OF NAME FROM DOBSON, GRACE W. (UNITED STATES CITIZEN). DOING BUSINESS AS WHATABURGER DRIVE INNS, CORPUS CHRISTI, TX

OWNER OF U.S. REG. NO. 652,137.

FOR: RESTAURANT SERVICES AND DRIVE IN RESTAURANT SERVICES, IN CLASS 100 (INT. CL. 42).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

SER. NO. 72-291,496, FILED 2-20-1968.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 27, 1990.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 29, 30, 32, 42

Prior U.S. Cl.: 45, 46, 100

United States Patent Office

Reg. No. 1,011,927

Registered May 27, 1975

TRADEMARK
SERVICE MARK
Principal Register

WHATABURGER

Whataburger, Inc. (Texas corporation)
3104 S. Alameda
Corpus Christi, Tex. 78404, by merger and change of name from
Whataburger No. 1, Inc. (Texas corporation)
Corpus Christi, Tex.

For: SOFT DRINKS, in CLASS 45 (INT. CL. 32).

For: HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, POTATO CHIPS, CORN CHIPS, FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANKFURTER SANDWICHES, in CLASS 46 (INT. CLS. 29 and 30).

For: RESTAURANT AND DRIVE-IN RESTAURANT SERVICES, in CLASS 100 (INT. CL. 42).

First use July 18, 1972; in commerce July 28, 1972.
The drawing is lined for the colors orange and brown.

Ser. No. 442,464, filed Nov. 29, 1972.

M. MERCHANT, Examiner

Int. Cls.: 29, 30, 32 and 42

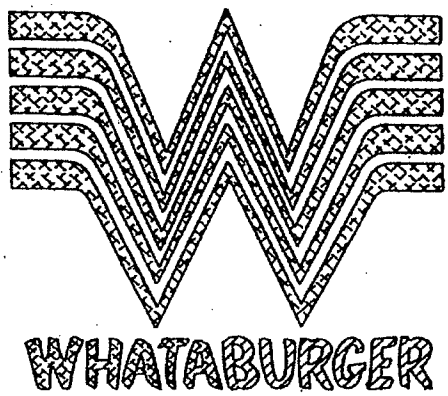
Prior U.S. Cls.: 45, 46 and 100

United States Patent and Trademark Office

Amended

Reg. No. 1,011,928
Registered May 27, 1975
OG Date Sep. 12, 1995

TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER



WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, ASSIGNEE BY CHANGE OF NAME, ASSIGNMENT AND MERGER FROM WHATABURGER INC. (TEXAS CORPORATION) CORPUS CHRISTI, TX

THE DRAWING IS LINED FOR THE COLORS ORANGE AND BROWN, BUT COLOR IS NOT CLAIMED AS A FEATURE OF THE MARK.

FOR: SOFT DRINKS, IN CLASS 45 (INT. CL. 32).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

FOR: HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, [POTATO CHIPS,] CORN CHIPS, FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANKFURTER SANDWICHES, IN CLASS 46 (INT. CLS. 29 AND 30).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Sep. 12, 1995.

COMMISSIONER OF PATENTS AND TRADEMARKS

FOR: RESTAURANT AND DRIVE-IN RESTAURANT SERVICES, IN CLASS 100 (INT. CL. 42).

FIRST USE 7-28-1972; IN COMMERCE 7-28-1972.

SER. NO. 72-442,465, FILED 11-29-1972.

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 1,014,196

Registered June 24, 1975

Renewal Term Begins June 24, 1995

TRADEMARK
PRINCIPAL REGISTER

WHATABURGER JR.

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY CHANGE OF NAME AND ASSIGNMENT FROM LUTZ, GRACE DOBSON (UNITED STATES CITIZEN) CORPUS CHRISTI, TX

OWNER OF U.S. REG. NOS. 652,137, 891,082 AND 963,811.

FOR: PREPARED HAMBURGER SANDWICH FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 29 (U.S. CL. 46).

FIRST USE 4-1-1973; IN COMMERCE 8-29-1973.

SER. NO. 73 [illegible],283, FILED 11-26-1973.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Aug. 8, 1995.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 1,116,918

United States Patent and Trademark Office

Registered Apr. 24, 1979

10 Year Renewal

Renewal Term Begins Apr. 24, 1999

TRADEMARK
PRINCIPAL REGISTER

WHATAMEAL

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981, BY MERGER WITH WHATABURGER SYSTEMS, INC. (TEXAS CORPORATION) CORPUS CHRISTI, TX

FOR: PREPARED MEAL CONSISTING OF A HAMBURGER SANDWICH, FRENCH FRIES AND A BEVERAGE FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 30 (U.S. CL. 46).

FIRST USE 7-1-1975; IN COMMERCE 7-1-1975.

SER. NO. 73-155,977, FILED 1-20-1978.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 30, 1999.

Prior U.S. Cl.: 40

United States Patent and Trademark Office

Reg. No. 1,206,344
Registered Aug. 24, 1982

TRADEMARK
Principal Register

WHATACATCH

Whataburger Systems, Inc. (Texas corporation)
3104 S. Alameda
Corpus Christi, Tex. 78404

For: BREADED FISH FILLETS SUITABLE FOR FISH SANDWICHES, in CLASS 29 (U.S. Cl. 46).

First use Oct. 14, 1978; in commerce Apr. 1, 1979.

For: PREPARED FISH SANDWICH FOR CONSUMPTION ON OR OFF THE PREMISES, in CLASS 30 (U.S. Cl. 46).

First use Oct. 14, 1978; in commerce Apr. 1, 1979.

Owner of U.S. Reg. Nos. 652,137, 1,011,928 and others.

Ser. No. 226,971, filed Aug. 10, 1979.

JERRY L. PRICE, Primary Examiner

ROBERT C. CLARK JR., Examiner

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,160,285

Registered May 26, 1998

TRADEMARK
PRINCIPAL REGISTER

WHATACHICK'N

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: CHICKEN SANDWICH, IN CLASS 30 (U.S. CL. 46).

FIRST USE 1-1-1984; IN COMMERCE 1-1-1984.

OWNER OF U.S. REG. NOS. 652,137, 1,116,918 AND OTHERS.

SER. NO. 75-261,844, FILED 3-24-1997.

SUSAN LESLIE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,335,590

United States Patent and Trademark Office

Registered Mar. 28, 2000

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

OWNER OF U.S. REG. NOS. 1,011,927, 2,160,285 AND OTHERS.

SER. NO. 75-674,147, FILED 4-5-1999.

DAVID ETTINGER, EXAMINING ATTORNEY

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 2,372,372

Registered Aug. 1, 2000

TRADEMARK
PRINCIPAL REGISTER

WHATAKIDS

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: CLOTHING FOR CHILDREN, NAMELY, SHIRTS, POLO SHIRTS, T-SHIRTS, DRESSES, OVERALLS, ONESIES, BASEBALL CAPS AND HATS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 11-0-1998; IN COMMERCE 2-15-1999.

SER. NO. 75-654,525, FILED 3-5-1999.

SUSAN LESLIE DUBOIS, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,418,380

United States Patent and Trademark Office

Registered Jan. 2, 2001

SERVICE MARK
PRINCIPAL REGISTER

WHATAGUY

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

SN 75-698,642, FILED 5-6-1999.

KATHERINE STOIDES, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,432,191

United States Patent and Trademark Office

Registered Feb. 27, 2001

SERVICE MARK
PRINCIPAL REGISTER

WHATAKIDS

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 4-1-1999; IN COMMERCE 4-1-1999.

SN 75-647,561, FILED 2-22-1999.

MITCHELL FRONT, EXAMINING ATTORNEY

Int. Cl.: 16

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38 and 50

Reg. No. 2,519,854

United States Patent and Trademark Office

Registered Dec. 18, 2001

TRADEMARK
PRINCIPAL REGISTER

WHATACOMIX

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE, SUITE 900
WILMINGTON, DE 19801

FOR: COMIC BOOKS AND CHILDREN'S ACTIVITY BOOKS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

SER. NO. 76-188,399, FILED 1-2-2001.

EDWARD TIMBERLAKE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 2,534,527

Registered Jan. 29, 2002

SERVICE MARK
PRINCIPAL REGISTER

WHATAPLACE! WHATATASTE!

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 10-11-1998; IN COMMERCE 10-11-1998.

SN 75-657,290, FILED 3-10-1999.

JASON TURNER, EXAMINING ATTORNEY

Int. Cl.: 36

Prior U.S. Cls.: 100, 101, and 102

United States Patent and Trademark Office

Reg. No. 2,757,109

Registered Aug. 26, 2003

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE
SUITE 900
WILMINGTON, DE 19801

FOR: CHARITABLE FUNDRAISING SERVICES, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-5-2001; IN COMMERCE 10-5-2001.

SN 76-332,382, FILED 10-31-2001.

RUSS HERMAN, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 2,846,139

United States Patent and Trademark Office

Registered May 25, 2004

TRADEMARK
PRINCIPAL REGISTER

WHATABLENDERS

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE
SUITE 900
WILMINGTON, DE 19801

FOR: MILK SHAKE DRINKS, BASES FOR MILK SHAKE DRINKS AND CANDY FLAVORED TOPPINGS THEREFOR, IN CLASS 30 (U.S. CL. 46).

FIRST USE 9-4-2002; IN COMMERCE 11-4-2002.

OWNER OF U.S. REG. NOS. 1,116,918, 2,409,945, AND OTHERS.

SN 76-473,190, FILED 12-6-2002.

DAWN FELDMAN, EXAMINING ATTORNEY

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,185,230

Registered Dec. 19, 2006

SERVICE MARK
PRINCIPAL REGISTER

WHATASIZE

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE, SUITE 900
WILMINGTON, DE 19801

FOR: RESTAURANT SERVICES FEATURING A PREPARED MEAL CONTAINING FRENCH FRIES AND A SOFT DRINK FOR CONSUMPTION ON OR OFF THE PREMISES , IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 0-0-1998; IN COMMERCE 0-0-1998.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 1,011,927 AND 1,011,928.

SER. NO. 76-627,124, FILED 1-7-2005.

ALICE SUE CARRUTHERS, EXAMINING ATTORNEY

Int. Cl.: 41

Prior U.S. Cls.: 100, 101, and 107

United States Patent and Trademark Office

Reg. No. 3,188,132
Registered Dec. 19, 2006

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER FIELD

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE, SUITE 900
WILMINGTON, DE 19801

FOR: PROVIDING STADIUM FACILITIES FOR SPORTING EVENTS, EXHIBITIONS, CONVENTIONS, COMMUNITY FESTIVAL EVENTS AND CONCERTS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 4-6-2005; IN COMMERCE 4-6-2005.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "FIELD", APART FROM THE MARK AS SHOWN.

SN 78-598,999, FILED 3-31-2005.

JUDITH HELFMAN, EXAMINING ATTORNEY

Int. Cl.: 41

Prior U.S. Cls.: 100, 101, and 107

United States Patent and Trademark Office

Reg. No. 3,188,136
Registered Dec. 19, 2006

SERVICE MARK
PRINCIPAL REGISTER

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE, SUITE 900
WILMINGTON, DE 19801

FOR: PROVIDING STADIUM FACILITIES FOR SPORTING EVENTS, EXHIBITIONS, CONVENTIONS, COMMUNITY FESTIVAL EVENTS AND CONCERTS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 4-6-2005; IN COMMERCE 4-6-2005.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "FIELD CORPUS CHRISTI", APART FROM THE MARK AS SHOWN.

SN 78-599,894, FILED 4-1-2005.

JUDITH HELFMAN, EXAMINING ATTORNEY

Trademark Trial and Appeal Board Electronic Filing System. http://estta.uspto.gov
ESTTA Tracking number: **ESTTA269676**
Filing date: **03/03/2009**

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

Proceeding	91186046
Party	Defendant Mahaney, Christine J.
Correspondence Address	R. SCOTT KELLER WARNER NORCROSS & JUDD LLP 900 FIFTH THIRD CENTER 111 LYON ST NW GRAND RAPIDS, MI 49503 UNITED STATES trademarks@wnj.com
Submission	Withdrawal Of Application
Filer's Name	R. Scott Keller
Filer's e-mail	trademarks@wnj.com,skeller@wnj.com,jelgin@wileyrein.com
Signature	/rsk/
Date	03/03/2009
Attachments	WHATADOG withdrawal.pdf (1 page)(27438 bytes)

Exhibit A

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

WHATABURGER PARTNERSHIP	)	
	)	
Opposer,	)	
	)	Opposition No.: 91/186,046
v.	)	Mark: WHATADOG
	)	Ser. No.: 77/403,811
CHRISTINE J. MAHANEY	)	
	)	
Applicant.	)	

ABANDONMENT WITH PREJUDICE OF
TRADEMARK APPLICATION SERIAL NO. 77/403,811

Applicant, Christine J. Mahaney, by and through undersigned counsel, hereby expressly abandons the above-identified application with prejudice.

Date: ~~November __, 2008~~ March 3, 2009

Respectfully submitted,

CHRISTINE J. MAHANEY

By: R. Scott Keller

R. Scott Keller
Warner Norcross & Judd LLP
900 Fifth Third Center
111 Lyon Street NW
Grand Rapids, MI 49503-2487
Telephone: 616.752.2479
Facsimile: 616.222.2479
Email: skeller@wnj.com

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

cv

Mailed: March 3, 2009

Opposition No. 91186046

Whataburger Partnership

v.

Mahaney, Christine J.

On March 3, 2009, applicant filed an abandonment of its application Serial No. 77403811 with prejudice.[1]

Trademark Rule 2.135 provides that if, in an inter partes proceeding, the applicant files an abandonment without the written consent of every adverse party to the proceeding, judgment shall be entered against applicant.

In view thereof, and because opposer's written consent to the abandonment is not of record, judgment is hereby entered against applicant, the opposition is sustained and registration to applicant is refused.

By the Trademark Trial and Appeal Board

[1] Applicant's abandonment does not indicate proof of service of a copy of same on counsel for opposer as required by Trademark Rule 2.119. In order to expedite this matter, a copy of said abandonment is forwarded herewith to counsel for opposer.

Exhibit A5

OIPE JC69
DEC 23 2004
PATENT & TRADEMARK OFFICE

TTAB

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

WHATAPARTNERSHIP, L.P.,	)	
	)	
Opposer,	)	
	)	Opposition No.: _____
v.	)	
	)	
R. A. "SKEET" NORET	)	
	)	
Applicant.	)	

NOTICE OF OPPOSITION

WhataPartnership, L.P., a limited partnership organized under the laws of Delaware, with offices located at 300 Delaware Avenue, Suite 900, Wilmington, DE 19801, hereby opposes registration of application Ser. No. 78/340,067 – **CHIHUAHUA WHAT A SANDWICH & Design** for "chili sandwich sold for consumption at a movie theatre" in International Class 30, filed on December 12, 2003 by R.A. "Skeet" Noret (hereinafter "Applicant"), and published for purposes of opposition in the Official Gazette dated September 28, 2004. WhataPartnership, L.P. will be damaged should the opposed application mature to registration. WhataPartnership, L.P. puts forth the following grounds for opposition:

1. WhataPartnership, L.P. is the owner of all right, title and interest in and to the trademarks and service marks pleaded in this Notice of Opposition and licenses to Whataburger, Inc., a Texas corporation with principal offices at 4600 Parkdale Drive, Corpus Christi, Texas 74811-9230, the right to operate and to authorize franchisees to operate restaurants using the pleaded trademarks and service marks. (WhataPartnership, L.P. and Whataburger, Inc. are hereinafter collectively referred to as "Opposer.")

2. Opposer, either directly or through its franchisees, operates over 500 restaurants in the United States and Mexico under the WHATABURGER name.

01/04/2005 KGIBBONS 00000038 501129 78340067
01 FC:6402 300.00 DA

12-23-2004
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #66

3. Opposer, through its predecessors in interest, adopted and commenced use of the WHATABUGER name as a service mark for restaurants services in 1950 and has used the name continuously and without interruption to the present day.

4. Opposer uses the WHATABURGER name not only to identify restaurant services, but also as a trademark to identify a diverse array of food products.

5. Opposer has developed a family of WHATA marks to its identify food products, and collateral goods such as printed materials and clothing.

6. Based on Opposer's extensive, exclusive and continuous use of its WHATABURGER and WHATA marks in connection with restaurant services, food products and collateral goods, the name WHATABURGER and Opposer's other WHATA marks have come to be recognized among the consuming public as designators of origin with respect to said services and products.

7. Opposer is the owner of all right, title and interest in and to the following federal service mark and trademark registrations, which presently are valid and subsisting in law. Opposer will submit current status and title copies, prepared by the Patent and Trademark Office, of its pleaded registrations at the appropriate time in this proceeding. Photocopies are attached hereto as Exhibit A.

(a) Registration No. 652,137 – **WHATABURGER** for "hamburger sandwich," registered on the Principal Register September 24, 1957.

(b) Registration No. 891,082 – **WHATABURGER** for "restaurant services and drive in restaurant services," registered on the Principal Register May 12, 1970.

(c) Registration No. 1,011,927 – **WHATABURGER** for "hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches" and "restaurant and drive-in restaurant services," registered on the Principal Register on May 27, 1975.

(d) Registration No. 1,011,928 – **WHATABURGER & W Design** for "hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches" and "restaurant and drive-in restaurant services," registered on the Principal Register on May 27, 1975.

(e) Registration No. 1,014,196 – **WHATABURGER JR.** for "prepared hamburger sandwich for consumption on or off premises," registered on the Principal Register on June 24, 1975.

(f) Registration No. 1,116,918 – **WHATAMEAL** for "prepared meal consisting of a hamburger sandwich, french fries and a beverage for consumption on or off the premises," registered on the Principal Register April 24, 1979.

(g) Registration No. 1,206,344 – **WHATACATCH** for "breaded fish fillets suitable for fish sandwiches" and "prepared fish sandwich for consumption on or off the premises," registered on the Principal Register August 24, 1982.

(h) Registration No. 2,150,703 – **WHATASIZE IT!** for "restaurant services featuring a prepared meal containing french fries and a soft drink for consumption on or off the premises," registered on the Principal Register April 14, 1998.

(i) Registration No. 2,160,285 – **WHATACHICK'N** for "chicken sandwich," registered on the Principal Register May 26, 1998.

(j) Registration No. 2,335,590 – **WHATABURGER** for "restaurant services," registered on the Principal Register March 28, 2000.

(k) Registration No. 2,372,372 – **WHATAKIDS** for "clothing for children, namely, shirts, polo shirts, t-shirts, dresses, overalls, onesies, baseball caps and hats," registered on the Principal Register August 1, 2000.

(l) Registration No. 2,409,945 – **WHATACHILL** for "frozen flavored fruit drinks offered for sale exclusively through applicant's restaurants," registered on the Principal Register December 5, 2000.

(m) Registration No. 2,418,380 – **WHATAGUY** for "restaurant services," registered on the Principal Register January 2, 2000.

(n) Registration No. 2,432,191 – **WHATAKIDS** for "restaurant services," registered on the Principal Register February 27, 2001.

(o) Registration No. 2,519,854 – **WHATACOMIX** for "comic books and children's activity books," registered on the Principal Register December 18, 2001.

(p) Registration No. 2,534,527 – **WHATAPLACE! WHATATASTE!** for "restaurant services," registered on the Principal Register January 29, 2002.

(q) Registration No. 2,757,109 – **WHATABURGER** for "charitable fundraising services," registered on the Principal Register August 26, 2003.

(r) Registration No. 2,846,139 – **WHATABLENDERS** for "milk shake drinks, bases for milk shake drinks and candy flavored toppings therefor, registered on the Principal Register May 25, 2004.

8. Opposer's Reg. Nos. 652,137; 891,082: 1,011,927; 1,011,928; 1,014,196; 1,116,918; 1,206,344; 2,150,703; and 2,160,285 are incontestable as to the products and services listed therein and are conclusive evidence of the validity of the registered marks, Opposer's ownership thereof, and of Opposer's exclusive right to use the marks in commerce on or in connection with the products and services identified in the registrations.

9. By reason of Opposer's extensive, exclusive and continuous use of its WHATABURGER and WHATA marks, Opposer has become known and recognized as the owner of the aforesaid marks.

10. On information and belief, Applicant has adopted and is using the designation CHIHUAHUA WHAT A SANDWICH & Design in connection with the food product identified in the opposed application.

11. The product identified in the opposed application is substantially identical to many of the products offered by Opposer under its WHATABURGER and WHATA marks and closely related to Opposer's remaining products and restaurant services.

12. The proposed designation CHIHUAHUA WHAT A SANDWICH & Design so resembles Opposer's WHATABURGER and WHATA marks in terms of appearance, sound, connotation and commercial impression as to be likely, when applied to the food product identified in the opposed application, to cause confusion and mistake and to deceive.

13. Applicant's proposed designation is confusingly similar to Opposer's WHATABURGER and WHATA marks so that registration of Applicant's proposed designation would be inconsistent with and damaging to Opposer's exclusive rights in and to its registered marks in connection with the products and services with which they are used.

14. Opposer will be damaged by registration of Applicant's proposed designation.

WHEREFORE, Opposer prays that its opposition be sustained and that Applicant's proposed mark be denied registration.

Opposer hereby authorizes the filing fee of THREE HUNDRED DOLLARS ($300.00) and any additional charges necessary to institute this proceeding to be debited to the deposit account of Wiley Rein & Fielding, Account No. 501129.

This opposition is being filed by the undersigned attorneys at law, duly authorized to represent Opposer in this proceeding, pursuant to Trademark Rule 2.101(b).

Respectfully submitted,

WHATAPARTNERSHIP, L.P.

By: _____

J. Timothy Hobbs
Christopher Kelly
Wiley Rein & Fielding LLP
1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000

Attorneys for WhataPartnership, L.P.

Dated: December 22, 2004
WRFMAIN 12273932.1

EXHIBIT A

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 652,137

Registered Sep. 24, 1957

Renewal Term Begins Sep. 24, 1997

TRADEMARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY ASSIGNMENT, CHANGE OF NAME, CHANGE OF NAME, ASSIGNMENT AND MERGER WITH DOBSON, HARMON A. (UNITED STATES CITIZEN) CORPUS CHRISTIE, TX

FOR: HAMBURGER SANDWICH, IN CLASS 46 (INT. CL. 30).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

SER. NO. 71-667,794, FILED 6-7-1954.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on July 29, 1997.

Int. Cl.: 42

Prior U.S. Cl.: 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 891,082
Registered May 12, 1970
Renewal Approved Feb. 15, 1990

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, ASSIGNEE BY ASSIGNMENT, MERGER AND CHANGES OF NAME FROM DOBSON, GRACE W. (UNITED STATES CITIZEN), DOING BUSINESS AS WHATABURGER DRIVE INNS, CORPUS CHRISTI, TX

OWNER OF U.S. REG. NO. 652,137.

FOR: RESTAURANT SERVICES AND DRIVE IN RESTAURANT SERVICES, IN CLASS 100 (INT. CL. 42).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

SER. NO. 72-291,496, FILED 2-20-1968.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 27, 1990.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cls.: 29, 30, 32 and 42

Prior U.S. Cls.: 45, 46 and 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 1,011,927

Registered May 27, 1975

Renewal Term Begins May 27, 1995

TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY CHANGE OF NAME, ASSIGNMENT AND MERGER WITH WHATABURGER, INC. (TEXAS CORPORATION) CORPUS CHRISTI, TX

THE DRAWING IS LINED FOR THE COLORS ORANGE AND BROWN, BUT COLOR IS NOT CLAIMED AS A FEATURE OF THE MARK.

FOR: SOFT DRINKS, IN CLASS 45 (INT. CL. 32).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

FOR: HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, [POTATO CHIPS, CORN CHIPS,] FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANKFURTER SANDWICHES, IN CLASS 46 (INT. CLS. 29 AND 30).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

FOR: RESTAURANT AND DRIVE-IN RESTAURANT SERVICES, IN CLASS 100 (INT. CL. 42).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

SER. NO. 72-442,464, FILED 11-29-1972.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on July 2, 1996.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cls.: 29, 30, 32 and 42

Prior U.S. Cls.: 45, 46 and 100

United States Patent and Trademark Office

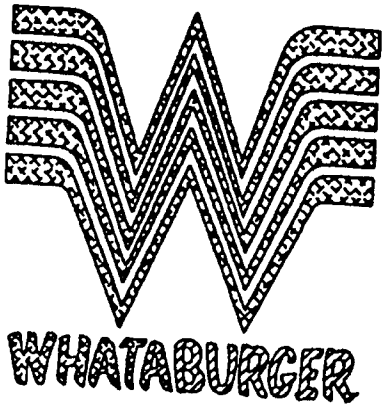
10 Year Renewal

Reg. No. 1,011,928

Registered May 27, 1975

Renewal Term Begins May 27, 1995

TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER



WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY CHANGE OF NAME, ASSIGNMENT AND MERGER WITH LUTZ , GRACE DOBSON (UNITED STATES CITIZEN), AKA GRACE W. DOBSON, CORPUS CHRISTI, TX

THE DRAWING IS LINED FOR THE COLORS ORANGE AND BROWN, BUT COLOR IS NOT CLAIMED AS A FEATURE OF THE MARK.

FOR: SOFT DRINKS, IN CLASS 45 (INT. CL. 32).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

FOR: HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, [POTATO CHIPS, CORN CHIPS,] FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANK-

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 5, 1996.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 1,014,196

Registered June 24, 1975

Renewal Term Begins June 24, 1995

TRADEMARK
PRINCIPAL REGISTER

WHATABURGER JR.

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY CHANGE OF NAME AND ASSIGNMENT FROM LUTZ, GRACE DOBSON (UNITED STATES CITIZEN) CORPUS CHRISTI, TX

OWNER OF U.S. REG. NOS. 652,137, 891,082 AND 963,811.

FOR: PREPARED HAMBURGER SANDWICH FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 29 (U.S. CL. 46).

FIRST USE 4-1-1973; IN COMMERCE 8-29-1973.

SER. NO. 73 [illegible]283, FILED 11-26-1973.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Aug. 8, 1995.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 1,116,918

United States Patent and Trademark Office

Registered Apr. 24, 1979

10 Year Renewal

Renewal Term Begins Apr. 24, 1999

TRADEMARK
PRINCIPAL REGISTER

WHATAMEAL

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981, BY MERGER WITH WHATABURGER SYSTEMS, INC. (TEXAS CORPORATION) CORPUS CHRISTI, TX

FOR: PREPARED MEAL CONSISTING OF A HAMBURGER SANDWICH, FRENCH FRIES AND A BEVERAGE FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 30 (U.S. CL. 46).

FIRST USE 7-1-1975; IN COMMERCE 7-1-1975.

SER. NO. 73-155,977, FILED 1-20-1978.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 30, 1999.

Int. Cls.: 29 and 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,206,344
Registered Aug. 24, 1982

TRADEMARK
Principal Register

WHATACATCH

Whataburger Systems, Inc. (Texas corporation)
3104 S. Alameda
Corpus Christi, Tex. 78404

For: BREADED FISH FILLETS SUITABLE FOR FISH SANDWICHES, in CLASS 29 (U.S. Cl. 46).

First use Oct. 14, 1978; in commerce Apr. 1, 1979.

For: PREPARED FISH SANDWICH FOR CONSUMPTION ON OR OFF THE PREMISES, in CLASS 30 (U.S. Cl. 46).

First use Oct. 14, 1978; in commerce Apr. 1, 1979.

Owner of U.S. Reg. Nos. 652,137, 1,011,928 and others.

Ser. No. 226,971, filed Aug. 10, 1979.

JERRY L. PRICE, Primary Examiner

ROBERT C. CLARK JR., Examiner

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,150,703

United States Patent and Trademark Office

Registered Apr. 14, 1998

SERVICE MARK
PRINCIPAL REGISTER

WHATASIZE IT!

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES FEATURING A PREPARED MEAL CONTAINING FRENCH FRIES AND A SOFT DRINK FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 7-4-1994; IN COMMERCE 7-4-1994.

OWNER OF U.S. REG. NOS. 652,137, 1,116,918 AND OTHERS.

SER. NO. 75-261,843, FILED 3-24-1997.

ALICE SUE CARRUTHERS, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,160,285

Registered May 26, 1998

TRADEMARK
PRINCIPAL REGISTER

WHATACHICK'N

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: CHICKEN SANDWICH, IN CLASS 30 (U.S. CL. 46).

FIRST USE 1-1-1984; IN COMMERCE 1-1-1984.

OWNER OF U.S. REG. NOS. 652,137, 1,116,918 AND OTHERS.

SER. NO. 75-261,844, FILED 3-24-1997.

SUSAN LESLIE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,335,590

United States Patent and Trademark Office

Registered Mar. 28, 2000

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

OWNER OF U.S. REG. NOS. 1,011,927, 2,160,285 AND OTHERS.

SER. NO. 75-674,147, FILED 4-5-1999.

DAVID ETTINGER, EXAMINING ATTORNEY

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

Reg. No. 2,372,372

United States Patent and Trademark Office

Registered Aug. 1, 2000

TRADEMARK
PRINCIPAL REGISTER

WHATAKIDS

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: CLOTHING FOR CHILDREN, NAMELY, SHIRTS, POLO SHIRTS, T-SHIRTS, DRESSES, OVERALLS, ONESIES, BASEBALL CAPS AND HATS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 11-0-1998; IN COMMERCE 2-15-1999.

SER. NO. 75-654,525, FILED 3-5-1999.

SUSAN LESLIE DUBOIS, EXAMINING ATTORNEY

Int. Cl.: 32

Prior U.S. Cls.: 45, 46 and 48

Reg. No. 2,409,945

United States Patent and Trademark Office

Registered Dec. 5, 2000

TRADEMARK
PRINCIPAL REGISTER

WHATACHILL

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: FROZEN FLAVORED FRUIT DRINKS OFFERED FOR SALE EXCLUSIVELY THROUGH APPLICANT'S RESTAURANTS, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 10-0-1997; IN COMMERCE 10-0-1997.

SER. NO. 75-621,986, FILED 1-15-1999.

MITCHELL FRONT, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,418,380

United States Patent and Trademark Office

Registered Jan. 2, 2001

SERVICE MARK
PRINCIPAL REGISTER

WHATAGUY

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

SN 75-698,642, FILED 5-6-1999.

KATHERINE STOIDES, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,432,191

United States Patent and Trademark Office

Registered Feb. 27, 2001

SERVICE MARK
PRINCIPAL REGISTER

WHATAKIDS

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 4-1-1999; IN COMMERCE 4-1-1999.

SN 75-647,561, FILED 2-22-1999.

MITCHELL FRONT, EXAMINING ATTORNEY

Int. Cl.: 16

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38 and 50

Reg. No. 2,519,854

United States Patent and Trademark Office

Registered Dec. 18, 2001

TRADEMARK
PRINCIPAL REGISTER

WHATACOMIX

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE, SUITE 900
WILMINGTON, DE 19801

FOR: COMIC BOOKS AND CHILDREN'S ACTIVITY BOOKS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

SER. NO. 76-188,399, FILED 1-2-2001.

EDWARD TIMBERLAKE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 2,534,527

Registered Jan. 29, 2002

SERVICE MARK
PRINCIPAL REGISTER

WHATAPLACE! WHATATASTE!

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 10-11-1998; IN COMMERCE 10-11-1998.

SN 75-657,290, FILED 3-10-1999.

JASON TURNER, EXAMINING ATTORNEY

Int. Cl.: 36

Prior U.S. Cls.: 100, 101, and 102

United States Patent and Trademark Office

Reg. No. 2,757,109
Registered Aug. 26, 2003

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE
SUITE 900
WILMINGTON, DE 19801

FOR: CHARITABLE FUNDRAISING SERVICES, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-5-2001; IN COMMERCE 10-5-2001.

SN 76-332,382, FILED 10-31-2001.

RUSS HERMAN, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 2,846,139

United States Patent and Trademark Office

Registered May 25, 2004

TRADEMARK
PRINCIPAL REGISTER

WHATABLENDERS

WHATAPARTNERSHIP, L.P.. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE
SUITE 900
WILMINGTON, DE 19801

FOR: MILK SHAKE DRINKS, BASES FOR MILK SHAKE DRINKS AND CANDY FLAVORED TOPPINGS THEREFOR, IN CLASS 30 (U.S. CL. 46).

FIRST USE 9-4-2002; IN COMMERCE 11-4-2002.

OWNER OF U.S. REG. NOS. 1,116,918, 2,409,945, AND OTHERS.

SN 76-473,190, FILED 12-6-2002.

DAWN FELDMAN, EXAMINING ATTORNEY

EXHIBIT A

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 652,137

United States Patent and Trademark Office

Registered Sep. 24, 1957

10 Year Renewal

Renewal Term Begins Sep. 24, 1997

TRADEMARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY ASSIGNMENT, CHANGE OF NAME, CHANGE OF NAME, ASSIGNMENT AND MERGER WITH DOBSON, HARMON A. (UNITED STATES CITIZEN) CORPUS CHRISTIE, TX

FOR: HAMBURGER SANDWICH, IN CLASS 46 (INT. CL. 30).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

SER. NO. 71-667,794, FILED 6-7-1954.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on July 29, 1997.

Int. Cl.: 42

Prior U.S. Cl.: 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 891,082
Registered May 12, 1970
Renewal Approved Feb. 15, 1990

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, ASSIGNEE BY ASSIGNMENT, MERGER AND CHANGES OF NAME FROM DOBSON, GRACE W. (UNITED STATES CITIZEN), DOING BUSINESS AS WHATABURGER DRIVE INNS, CORPUS CHRISTI, TX

OWNER OF U.S. REG. NO. 652,137.

FOR: RESTAURANT SERVICES AND DRIVE IN RESTAURANT SERVICES, IN CLASS 100 (INT. CL. 42).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

SER. NO. 72-291,496, FILED 2-20-1968.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 27, 1990.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cls.: 29, 30, 32 and 42

Prior U.S. Cls.: 45, 46 and 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 1,011,927

Registered May 27, 1975

Renewal Term Begins May 27, 1995

TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY CHANGE OF NAME, ASSIGNMENT AND MERGER WITH WHATABURGER, INC. (TEXAS CORPORATION) CORPUS CHRISTI, TX

THE DRAWING IS LINED FOR THE COLORS ORANGE AND BROWN, BUT COLOR IS NOT CLAIMED AS A FEATURE OF THE MARK.

FOR: SOFT DRINKS, IN CLASS 45 (INT. CL. 32).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

FOR: HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, [POTATO CHIPS, CORN CHIPS,] FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANKFURTER SANDWICHES, IN CLASS 46 (INT. CLS. 29 AND 30).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

FOR: RESTAURANT AND DRIVE-IN RESTAURANT SERVICES, IN CLASS 100 (INT. CL. 42).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

SER. NO. 72-442,464, FILED 11-29-1972.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on July 2, 1996.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cls.: 29, 30, 32 and 42

Prior U.S. Cls.: 45, 46 and 100

United States Patent and Trademark Office

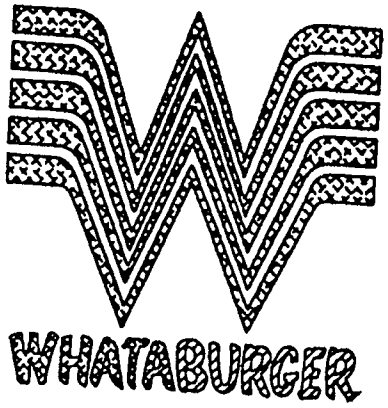
10 Year Renewal

Reg. No. 1,011,928

Registered May 27, 1975

Renewal Term Begins May 27, 1995

TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER



WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY CHANGE OF NAME, ASSIGNMENT AND MERGER WITH LUTZ , GRACE DOBSON (UNITED STATES CITIZEN), AKA GRACE W. DOBSON, CORPUS CHRISTI, TX

THE DRAWING IS LINED FOR THE COLORS ORANGE AND BROWN, BUT COLOR IS NOT CLAIMED AS A FEATURE OF THE MARK.

FOR: SOFT DRINKS, IN CLASS 45 (INT. CL. 32).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

FOR: HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, [POTATO CHIPS, CORN CHIPS,] FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANK-

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 5, 1996.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,014,196

Registered June 24, 1975

10 Year Renewal

Renewal Term Begins June 24, 1995

TRADEMARK
PRINCIPAL REGISTER

WHATABURGER JR.

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY CHANGE OF NAME AND ASSIGNMENT FROM LUTZ, GRACE DOBSON (UNITED STATES CITIZEN) CORPUS CHRISTI, TX

OWNER OF U.S. REG. NOS. 652,137, 891,082 AND 963,811.

FOR: PREPARED HAMBURGER SANDWICH FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 29 (U.S. CL. 46).

FIRST USE 4-1-1973; IN COMMERCE 8-29-1973

SER. NO. 73 007,283, FILED 11-26-1973.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Aug. 8, 1995.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 1,116,918

United States Patent and Trademark Office

Registered Apr. 24, 1979

10 Year Renewal

Renewal Term Begins Apr. 24, 1999

TRADEMARK
PRINCIPAL REGISTER

WHATAMEAL

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981, BY MERGER WITH WHATABURGER SYSTEMS, INC. (TEXAS CORPORATION) CORPUS CHRISTI, TX

FOR: PREPARED MEAL CONSISTING OF A HAMBURGER SANDWICH, FRENCH FRIES AND A BEVERAGE FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 30 (U.S. CL. 46).

FIRST USE 7-1-1975; IN COMMERCE 7-1-1975.

SER. NO. 73-155,977, FILED 1-20-1978.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 30, 1999.

Int. Cls.: 29 and 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,206,344
Registered Aug. 24, 1982

TRADEMARK
Principal Register

WHATACATCH

Whataburger Systems, Inc. (Texas corporation)
3104 S. Alameda
Corpus Christi, Tex. 78404

For: BREADED FISH FILLETS SUITABLE FOR FISH SANDWICHES, in CLASS 29 (U.S. Cl. 46).

First use Oct. 14, 1978; in commerce Apr. 1, 1979.

For: PREPARED FISH SANDWICH FOR CONSUMPTION ON OR OFF THE PREMISES, in CLASS 30 (U.S. Cl. 46).

First use Oct. 14, 1978; in commerce Apr. 1, 1979.

Owner of U.S. Reg. Nos. 652,137, 1,011,928 and others.

Ser. No. 226,971, filed Aug. 10, 1979.

JERRY L. PRICE, Primary Examiner

ROBERT C. CLARK JR., Examiner

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,150,703

United States Patent and Trademark Office

Registered Apr. 14, 1998

SERVICE MARK
PRINCIPAL REGISTER

WHATASIZE IT!

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES FEATURING A PREPARED MEAL CONTAINING FRENCH FRIES AND A SOFT DRINK FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 7-4-1994; IN COMMERCE 7-4-1994.

OWNER OF U.S. REG. NOS. 652,137, 1,116,918 AND OTHERS.

SER. NO. 75-261,843, FILED 3-24-1997.

ALICE SUE CARRUTHERS, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,160,285

Registered May 26, 1998

TRADEMARK
PRINCIPAL REGISTER

WHATACHICK'N

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: CHICKEN SANDWICH, IN CLASS 30 (U.S. CL. 46).

FIRST USE 1-1-1984; IN COMMERCE 1-1-1984.

OWNER OF U.S. REG. NOS. 652,137, 1,116,918 AND OTHERS.

SER. NO. 75-261,844, FILED 3-24-1997.

SUSAN LESLIE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,335,590

United States Patent and Trademark Office

Registered Mar. 28, 2000

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

OWNER OF U.S. REG. NOS. 1,011,927, 2,160,285 AND OTHERS.

SER. NO. 75-674,147, FILED 4-5-1999.

DAVID ETTINGER, EXAMINING ATTORNEY

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

Reg. No. 2,372,372

United States Patent and Trademark Office

Registered Aug. 1, 2000

TRADEMARK
PRINCIPAL REGISTER

WHATAKIDS

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: CLOTHING FOR CHILDREN, NAMELY, SHIRTS, POLO SHIRTS, T-SHIRTS, DRESSES, OVERALLS, ONESIES, BASEBALL CAPS AND HATS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 11-0-1998; IN COMMERCE 2-15-1999.

SER. NO. 75-654,525, FILED 3-5-1999.

SUSAN LESLIE DUBOIS, EXAMINING ATTORNEY

Int. Cl.: 32

Prior U.S. Cls.: 45, 46 and 48

Reg. No. 2,409,945

United States Patent and Trademark Office

Registered Dec. 5, 2000

TRADEMARK
PRINCIPAL REGISTER

WHATACHILL

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: FROZEN FLAVORED FRUIT DRINKS OFFERED FOR SALE EXCLUSIVELY THROUGH APPLICANT'S RESTAURANTS, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 10-0-1997; IN COMMERCE 10-0-1997.

SER. NO. 75-621,986, FILED 1-15-1999.

MITCHELL FRONT, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,418,380

United States Patent and Trademark Office

Registered Jan. 2, 2001

SERVICE MARK
PRINCIPAL REGISTER

WHATAGUY

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

SN 75-698,642, FILED 5-6-1999.

KATHERINE STOIDES, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,432,191

United States Patent and Trademark Office

Registered Feb. 27, 2001

SERVICE MARK
PRINCIPAL REGISTER

WHATAKIDS

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 4-1-1999; IN COMMERCE 4-1-1999.

SN 75-647,561, FILED 2-22-1999.

MITCHELL FRONT, EXAMINING ATTORNEY

Int. Cl.: 16

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38 and 50

Reg. No. 2,519,854

Registered Dec. 18, 2001

United States Patent and Trademark Office

TRADEMARK
PRINCIPAL REGISTER

WHATACOMIX

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE, SUITE 900
WILMINGTON, DE 19801

FOR: COMIC BOOKS AND CHILDREN'S ACTIVITY BOOKS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

SER. NO. 76-188,399, FILED 1-2-2001.

EDWARD TIMBERLAKE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 2,534,527

Registered Jan. 29, 2002

SERVICE MARK
PRINCIPAL REGISTER

WHATAPLACE! WHATATASTE!

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 10-11-1998; IN COMMERCE 10-11-1998.

SN 75-657,290, FILED 3-10-1999.

JASON TURNER, EXAMINING ATTORNEY

Int. Cl.: 36

Prior U.S. Cls.: 100, 101, and 102

United States Patent and Trademark Office

Reg. No. 2,757,109

Registered Aug. 26, 2003

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE
SUITE 900
WILMINGTON, DE 19801

FOR: CHARITABLE FUNDRAISING SERVICES, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-5-2001; IN COMMERCE 10-5-2001.

SN 76-332,382, FILED 10-31-2001.

RUSS HERMAN, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 2,846,139

United States Patent and Trademark Office

Registered May 25, 2004

TRADEMARK
PRINCIPAL REGISTER

WHATABLENDERS

WHATAPARTNERSHIP, L.P.. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE
SUITE 900
WILMINGTON, DE 19801

FOR: MILK SHAKE DRINKS, BASES FOR MILK SHAKE DRINKS AND CANDY FLAVORED TOPPINGS THEREFOR, IN CLASS 30 (U.S. CL. 46).

FIRST USE 9-4-2002; IN COMMERCE 11-4-2002.

OWNER OF U.S. REG. NOS. 1,116,918, 2,409,945, AND OTHERS.

SN 76-473,190, FILED 12-6-2002.

DAWN FELDMAN, EXAMINING ATTORNEY

ESTTA Tracking number: **ESTTA29820**

Filing date: **04/05/2005**

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

Proceeding	91163686
Party	Defendant Noret, R.A. "Skeet" Noret, R.A. "Skeet" P.O. Box 1303 Lamesa, TX 79331
Correspondence Address	R.A. "Skeet" Noret P.O. Box 1303 Lamesa, TX 79331 shnsch@aol.com
Submission	Withdrawal Of Appplication
Filer's Name	Shelly Schedler
Filer's e-mail	shnsch@aol.com
Signature	/R.A./Skeet/Noret
Date	04/05/2005
Attachments	Stewart.pdf (1 page)

April 5, 2005

United States Patent and Trademark Office
Trademark Trial and Appeal Board
Pauline Stewart, Legal Assistant
P.O. Box 1451
Alexandria, VA 22313-1451

Re: Opposition No. 91163686
Serial No. 78340067

Dear Ms. Pauline Stewart:

I am hereby filing our express abandonment of the above-referenced mark.
I can be reached at (972) 334-3480 should you have any questions or concerns.

Sincerely,

Shelly Noret Schedler

Cc: R.A. Noret
Attorneys for WHATAPARTNERSHIP, L.P.

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Ricks

Mailed: April 7, 2005

Opposition No. 91163686

WhataPartnership L.P.

v.

Noret, R.A. "Skeet"

On April 5, 2005, applicant filed an abandonment of its application Serial No. 78/340,067.[1]

Trademark Rule 2.135 provides that if, in an inter partes proceeding, the applicant files an abandonment without the written consent of every adverse party to the proceeding, judgment shall be entered against applicant.

In view thereof, and because opposer's written consent to the abandonment is not of record, judgment is hereby entered against applicant, the opposition is sustained and registration to applicant is refused.

By the Trademark Trial and Appeal Board

---

[1] Applicant's abandonment does not indicate proof of service of a copy of same on counsel for opposer as required by Trademark Rule 2.119. In order to expedite this matter, a copy of said abandonment is forwarded herewith to counsel for opposer.

Exhibit A6

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

WHATAPARTNERSHIP, L.P.,	)	
	)	
Opposer,	)	
	)	Opposition No.: _____
v.	)	
	)	
SCJ ENTERPRISES, INC.	)	
	)	
Applicant.	)	TTAB

NOTICE OF OPPOSITION

WhataPartnership, L.P., a limited partnership organized under the laws of Delaware, with offices located at 300 Delaware Avenue, Suite 900, Wilmington, DE 19801, hereby opposes registration of application Ser. No. 76/511,369 – **WHATTA JERK X-TREME BEEF JERKY** for "meats and processed foods, namely, beef jerky," in International Class 29, filed on May 2, 2003 by SCJ Enterprises, Inc. (hereinafter "Applicant"), and published for purposes of opposition in the Official Gazette dated March 23, 2004. WhataPartnership, L.P. will be damaged should the opposed application mature to registration. WhataPartnership, L.P. puts forth the following grounds for opposition:

1. WhataPartnership, L.P. is the owner of all right, title and interest in and to the trademarks and service marks pleaded in this Notice of Opposition and licenses to Whataburger, Inc., a Texas corporation with principal offices at 4600 Parkdale Drive, Corpus Christi, Texas 74811-9230, the right to operate and to authorize franchisees to operate restaurants using the pleaded trademarks and service marks. (WhataPartnership, L.P. and Whataburger, Inc. are hereinafter collectively referred to as "Opposer.")

2. Opposer, either directly or through its franchisees, operates over 500 restaurants in the United States and Mexico under the WHATABURGER name.

07/23/2004 GTHOMAS2 00000009 501129 76511369
01 FC:6402 300.00 DA

[redacted]

07-21-2004
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #22

3. Opposer, through its predecessors in interest, adopted and commenced use of the WHATABUGER name as a service mark for restaurants services in 1950 and has used the name continuously and without interruption to the present day.

4. Opposer uses the WHATABURGER name not only to identify its restaurant services, but also as a trademark to identify food products sold at its restaurants.

5. Opposer has developed a family of WHATA marks to its identify food products, and collateral goods such as printed materials and clothing.

6. Based on Opposer's extensive, exclusive and continuous use of its WHATABURGER and WHATA marks in connection with restaurant services, food products and collateral goods, the name WHATABURGER and Opposer's other WHATA marks have come to be recognized among the consuming public as designators of origin with respect to said services and products.

7. Opposer is the owner of all right, title and interest in and to the following federal service mark and trademark registrations, which presently are valid and subsisting in law. Opposer will submit current status and title copies, prepared by the Patent and Trademark Office, of its pleaded registrations at the appropriate time in this proceeding. Photocopies are attached hereto as Exhibit A.

(a) Registration No. 652,137 – **WHATABURGER** for "hamburger sandwich," registered on the Principal Register September 24, 1957.

(b) Registration No. 891,082 – **WHATABURGER** for "restaurant services and drive in restaurant services," registered on the Principal Register May 12, 1970.

(c) Registration No. 1,011,927 – **WHATABURGER** for "hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches" and "restaurant and drive-in restaurant services," registered on the Principal Register on May 27, 1975.

(d) Registration No. 1,011,928 – **WHATABURGER & W Design** for "hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake

beverages, and frankfurter sandwiches" and "restaurant and drive-in restaurant services," registered on the Principal Register on May 27, 1975.

(e) Registration No. 1,014,196 – **WHATABURGER JR.** for "prepared hamburger sandwich for consumption on or off premises," registered on the Principal Register on June 24, 1975.

(f) Registration No. 1,116,918 – **WHATAMEAL** for "prepared meal consisting of a hamburger sandwich, french fries and a beverage for consumption on or off the premises," registered on the Principal Register April 24, 1979.

(g) Registration No. 1,206,344 – **WHATACATCH** for "breaded fish fillets suitable for fish sandwiches" and "prepared fish sandwich for consumption on or off the premises," registered on the Principal Register August 24, 1982.

(h) Registration No. 2,150,703 – **WHATASIZE IT!** for "restaurant services featuring a prepared meal containing french fries and a soft drink for consumption on or off the premises," registered on the Principal Register April 14, 1998.

(i) Registration No. 2,160,285 – **WHATACHICK'N** for "chicken sandwich," registered on the Principal Register May 26, 1998.

(j) Registration No. 2,335,590 – **WHATABURGER** for "restaurant services," registered on the Principal Register March 28, 2000.

(k) Registration No. 2,372,372 – **WHATAKIDS** for "clothing for children, namely, shirts, polo shirts, t-shirts, dresses, overalls, onesies, baseball caps and hats," registered on the Principal Register August 1, 2000.

(l) Registration No. 2,409,945 – **WHATACHILL** for "frozen flavored fruit drinks offered for sale exclusively through applicant's restaurants," registered on the Principal Register December 5, 2000.

(m) Registration No. 2,418,380 – **WHATAGUY** for "restaurant services," registered on the Principal Register January 2, 2000.

(n) Registration No. 2,432,191 – **WHATAKIDS** for "restaurant services," registered on the Principal Register February 27, 2001.

(o) Registration No. 2,519,854 – **WHATACOMIX** for "comic books and children's activity books," registered on the Principal Register December 18, 2001.

(p) Registration No. 2,534,527 – **WHATAPLACE! WHATATASTE!** for "restaurant services," registered on the Principal Register January 29, 2002.

(q) Registration No. 2,757,109 – **WHATABURGER** for "charitable fundraising services," registered on the Principal Register August 26, 2003.

(r) Registration No. 2,846,139 – **WHATABLENDERS** for "milk shake drinks, bases for milk shake drinks and candy flavored toppings therefor, registered on the Principal Register May 25, 2004.

8. Opposer's Reg. Nos. 652,137; 891,082: 1,011,927; 1,011,928; 1,014,196; 1,116,918; 1,206,344; 2,150,703; and 2,160,285 are incontestable as to the products and services listed therein and are conclusive evidence of the validity of the registered marks, Opposer's ownership thereof, and of Opposer's exclusive right to use the marks in commerce on or in connection with the products and services identified in the registrations.

9. By reason of Opposer's extensive, exclusive and continuous use of its WHATABURGER and WHATA marks, Opposer has become known and recognized as the owner of the aforesaid marks.

10. On information and belief, Applicant intends to adopt and commence use of WHATTA JERK X-TREME BEEF JERKY in connection with the food product identified in the opposed application.

11. The product identified in the opposed application is substantially identical to many of the products offered by Opposer under its WHATABURGER and WHATA marks and otherwise closely related to Opposer's remaining products and restaurant services.

12. The proposed designation WHATTA JERK X-TREME BEEF JERKY so resembles Opposer's WHATABURGER and WHATA marks in terms of appearance, sound, connotation and commercial impression as to be likely, when applied to the food product identified in the opposed application, to cause confusion and mistake and to deceive.

13. Applicant's proposed designation is confusingly similar to Opposer's WHATABURGER and WHATA marks so that registration of Applicant's proposed designation

would be inconsistent with and damaging to Opposer's exclusive rights in and to its registered marks in connection with the products and services with which they are used.

14. Opposer will be damaged by registration of Applicant's proposed designation.

WHEREFORE, Opposer prays that its opposition be sustained and that Applicant's proposed mark be denied registration.

Opposer hereby authorizes the filing fee of THREE HUNDRED DOLLARS ($300.00) and any additional charges necessary to institute this proceeding in two classes to be debited from the deposit account of Wiley Rein & Fielding, Account No. 501129.

This opposition is being filed by the undersigned attorneys at law, duly authorized to represent Opposer in this proceeding, pursuant to Trademark Rule 2.101(b).

Respectfully submitted,

WHATAPARTNERSHIP, L.P.

By: _____

J. Timothy Hobbs
Christopher Kelly
Wiley Rein & Fielding LLP
1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000

Attorneys for WhataPartnership, L.P.

Dated: July 21, 2004
WRFMAIN 12215005.1

EXHIBIT A

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,846,139

Registered May 25, 2004

TRADEMARK
PRINCIPAL REGISTER

WHATABLENDERS

WHATAPARTNERSHIP, L.P.. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE
SUITE 900
WILMINGTON, DE 19801

FOR: MILK SHAKE DRINKS, BASES FOR MILK SHAKE DRINKS AND CANDY FLAVORED TOPPINGS THEREFOR, IN CLASS 30 (U.S. CL. 46).

FIRST USE 9-4-2002; IN COMMERCE 11-4-2002.

OWNER OF U.S. REG. NOS. 1,116,918, 2,409,945, AND OTHERS.

SN 76-473,190, FILED 12-6-2002.

DAWN FELDMAN, EXAMINING ATTORNEY

Int. Cl.: 36

Prior U.S. Cls.: 100, 101, and 102

United States Patent and Trademark Office

Reg. No. 2,757,109

Registered Aug. 26, 2003

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE
SUITE 900
WILMINGTON, DE 19801

FOR: CHARITABLE FUNDRAISING SERVICES, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-5-2001; IN COMMERCE 10-5-2001.

SN 76-332,382, FILED 10-31-2001.

RUSS HERMAN, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office Reg. No. 2,534,527
Registered Jan. 29, 2002

SERVICE MARK
PRINCIPAL REGISTER

WHATAPLACE! WHATATASTE!

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 10-11-1998; IN COMMERCE 10-11-1998.

SN 75-657,290, FILED 3-10-1999.

JASON TURNER, EXAMINING ATTORNEY

Int. Cl.: 16

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38 and 50

United States Patent and Trademark Office

Reg. No. 2,519,854
Registered Dec. 18, 2001

TRADEMARK
PRINCIPAL REGISTER

WHATACOMIX

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE, SUITE 900
WILMINGTON, DE 19801

FOR: COMIC BOOKS AND CHILDREN'S ACTIVITY BOOKS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

SER. NO. 76-188,399, FILED 1-2-2001.

EDWARD TIMBERLAKE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 2,432,191

Registered Feb. 27, 2001

SERVICE MARK
PRINCIPAL REGISTER

WHATAKIDS

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 4-1-1999; IN COMMERCE 4-1-1999.

SN 75-647,561, FILED 2-22-1999.

MITCHELL FRONT, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 2,418,380

Registered Jan. 2, 2001

SERVICE MARK
PRINCIPAL REGISTER

WHATAGUY

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

SN 75-698,642, FILED 5-6-1999.

KATHERINE STOIDES, EXAMINING ATTORNEY

Int. Cl.: 32

Prior U.S. Cls.: 45, 46 and 48

United States Patent and Trademark Office

Reg. No. 2,409,945

Registered Dec. 5, 2000

TRADEMARK
PRINCIPAL REGISTER

WHATACHILL

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: FROZEN FLAVORED FRUIT DRINKS OFFERED FOR SALE EXCLUSIVELY THROUGH APPLICANT'S RESTAURANTS, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 10-0-1997; IN COMMERCE 10-0-1997.

SER. NO. 75-621,986, FILED 1-15-1999.

MITCHELL FRONT, EXAMINING ATTORNEY

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 2,372,372

Registered Aug. 1, 2000

TRADEMARK
PRINCIPAL REGISTER

WHATAKIDS

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: CLOTHING FOR CHILDREN, NAMELY, SHIRTS, POLO SHIRTS, T-SHIRTS, DRESSES, OVERALLS, ONESIES, BASEBALL CAPS AND HATS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 11-0-1998; IN COMMERCE 2-15-1999.

SER. NO. 75-654,525, FILED 3-5-1999.

SUSAN LESLIE DUBOIS, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 2,335,590

Registered Mar. 28, 2000

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

OWNER OF U.S. REG. NOS. 1,011,927, 2,160,285 AND OTHERS.

SER. NO. 75-674,147, FILED 4-5-1999.

DAVID ETTINGER, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,160,285

Registered May 26, 1998

TRADEMARK
PRINCIPAL REGISTER

WHATACHICK'N

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: CHICKEN SANDWICH, IN CLASS 30 (U.S. CL. 46).

FIRST USE 1-1-1984; IN COMMERCE 1-1-1984.

OWNER OF U.S. REG. NOS. 652,137, 1,116,918 AND OTHERS.

SER. NO. 75-261,844, FILED 3-24-1997.

SUSAN LESLIE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 2,150,703

Registered Apr. 14, 1998

SERVICE MARK
PRINCIPAL REGISTER

WHATASIZE IT!

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES FEATURING A PREPARED MEAL CONTAINING FRENCH FRIES AND A SOFT DRINK FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 7-4-1994; IN COMMERCE 7-4-1994.

OWNER OF U.S. REG. NOS. 652,137, 1,116,918 AND OTHERS.

SER. NO. 75-261,843, FILED 3-24-1997.

ALICE SUE CARRUTHERS, EXAMINING ATTORNEY

Int. Cls.: 29 and 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,206,344
Registered Aug. 24, 1982

TRADEMARK
Principal Register

WHATACATCH

Whataburger Systems, Inc. (Texas corporation)
3104 S. Alameda
Corpus Christi, Tex. 78404

For: BREADED FISH FILLETS SUITABLE FOR FISH SANDWICHES, in CLASS 29 (U.S. Cl. 46).

First use Oct. 14, 1978; in commerce Apr. 1, 1979.

For: PREPARED FISH SANDWICH FOR CONSUMPTION ON OR OFF THE PREMISES, in CLASS 30 (U.S. Cl. 46).

First use Oct. 14, 1978; in commerce Apr. 1, 1979.

Owner of U.S. Reg. Nos. 652,137, 1,011,928 and others.

Ser. No. 226,971, filed Aug. 10, 1979.

JERRY L. PRICE, Primary Examiner

ROBERT C. CLARK JR., Examiner

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 1,116,918

Registered Apr. 24, 1979

Renewal Term Begins Apr. 24, 1999

TRADEMARK
PRINCIPAL REGISTER

WHATAMEAL

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981, BY MERGER WITH WHATABURGER SYSTEMS, INC. (TEXAS CORPORATION) CORPUS CHRISTI, TX

FOR: PREPARED MEAL CONSISTING OF A HAMBURGER SANDWICH, FRENCH FRIES AND A BEVERAGE FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 30 (U.S. CL. 46).

FIRST USE 7-1-1975; IN COMMERCE 7-1-1975.

SER. NO. 73-155,977, FILED 1-20-1978.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 30, 1999.

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 1,014,196

Registered June 24, 1975

Renewal Term Begins June 24, 1995

TRADEMARK
PRINCIPAL REGISTER

WHATABURGER JR.

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411. BY CHANGE OF NAME AND ASSIGNMENT FROM LUTZ, GRACE DOBSON (UNITED STATES CITIZEN) CORPUS CHRISTI, TX

OWNER OF U.S. REG. NOS. 652,137, 891,082 AND 963,811.

FOR: PREPARED HAMBURGER SANDWICH FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 29 (U.S. CL. 46).

FIRST USE 4-1-1973; IN COMMERCE 8-29-1973.

SER. NO. 73 [illegible],283, FILED 11-26-1973.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Aug. 8, 1995.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cls.: 29, 30, 32 and 42

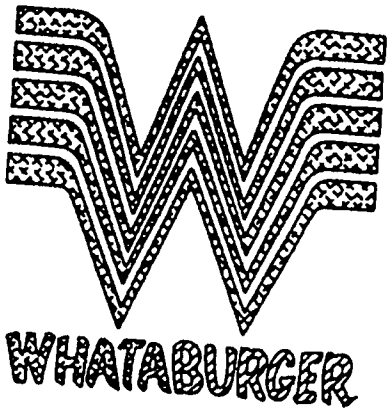
Prior U.S. Cls.: 45, 46 and 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 1,011,928
Registered May 27, 1975
Renewal Term Begins May 27, 1995

TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER



WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY CHANGE OF NAME, ASSIGNMENT AND MERGER WITH LUTZ, GRACE DOBSON (UNITED STATES CITIZEN), AKA GRACE W. DOBSON, CORPUS CHRISTI, TX

THE DRAWING IS LINED FOR THE COLORS ORANGE AND BROWN, BUT COLOR IS NOT CLAIMED AS A FEATURE OF THE MARK.

FOR: SOFT DRINKS, IN CLASS 45 (INT. CL. 32).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

FOR: HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, [POTATO CHIPS, CORN CHIPS,] FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANK-

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 5, 1996.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cls.: 29, 30, 32 and 42

Prior U.S. Cls.: 45, 46 and 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 1,011,927

Registered May 27, 1975

Renewal Term Begins May 27, 1995

TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY CHANGE OF NAME, ASSIGNMENT AND MERGER WITH WHATABURGER, INC. (TEXAS CORPORATION) CORPUS CHRISTI, TX

THE DRAWING IS LINED FOR THE COLORS ORANGE AND BROWN, BUT COLOR IS NOT CLAIMED AS A FEATURE OF THE MARK.

FOR: SOFT DRINKS, IN CLASS 45 (INT. CL. 32).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

FOR: HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, [POTATO CHIPS, CORN CHIPS,] FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANKFURTER SANDWICHES, IN CLASS 46 (INT. CLS. 29 AND 30).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

FOR: RESTAURANT AND DRIVE-IN RESTAURANT SERVICES, IN CLASS 100 (INT. CL. 42).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

SER. NO. 72-442,464, FILED 11-29-1972.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on July 2, 1996.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 42

Prior U.S. Cl.: 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 891,082
Registered May 12, 1970
Renewal Approved Feb. 15, 1990

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, ASSIGNEE BY ASSIGNMENT, MERGER AND CHANGES OF NAME FROM DOBSON, GRACE W. (UNITED STATES CITIZEN), DOING BUSINESS AS WHATABURGER DRIVE INNS, CORPUS CHRISTI, TX

OWNER OF U.S. REG. NO. 652,137.

FOR: RESTAURANT SERVICES AND DRIVE IN RESTAURANT SERVICES, IN CLASS 100 (INT. CL. 42).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

SER. NO. 72-291,496, FILED 2-20-1968.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 27, 1990.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 652,137

Registered Sep. 24, 1957

Renewal Term Begins Sep. 24, 1997

TRADEMARK
:PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY ASSIGNMENT. CHANGE OF NAME, CHANGE OF NAME, ASSIGNMENT AND MERGER WITH DOBSON, HARMON A. (UNITED STATES CITIZEN) CORPUS CHRISTIE, TX

FOR: HAMBURGER SANDWICH, IN CLASS 46 (INT. CL. 30).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

SER. NO. 71-667,794, FILED 6-7-1954.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on July 29, 1997.

ORIGINAL

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

WHATAPARTNERSHIP, L.P. Opposer, v. SCJ ENTERPRISES, INC. Applicant.	)	Opposition No.: 91161455 Serial No.: 76511369

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

APPLICANT SCJ ENTERPRISES, INC.'S

ANSWER TO NOTICE OF OPPOSITION

ANSWER

In response to the Notice of Opposition ("Opposition") issued by the Board on or about July 21, 2004, the applicant, SCJ Enterprises, Inc. (hereinafter, "Applicant"), answers the opposition of WhataPartnership, L.P. (hereinafter, "Opposer") identified above as follows:

1. In response to the allegations of paragraph 1, the allegations are conclusions of law as to which no admission or denial is required. To the extent the remaining allegations of paragraph 1 require a response, the Applicant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations and on that basis denies each and every remaining allegation contained therein.

2. In response to the allegations of paragraph 2, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph and on that basis denies each and every allegation contained therein.

3. In response to the allegations of paragraph 3, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph and on that basis denies each and every allegation contained therein.

4. In response to the allegations of paragraph 4, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph and on that basis denies each and every allegation contained therein.

5. In response to the allegations of paragraph 5, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph and on that basis denies each and every allegation contained therein.

6. In response to the allegations of paragraph 6, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph and on that basis denies each and every allegation contained therein.

7. In response to the allegations of paragraph 7, the allegations are conclusions of law as to which no admission or denial is required. As to the documents referred to therein, the documents speak for themselves. To the extent the remaining allegations of paragraph 7 require a response, the Applicant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations and on that basis denies each and every remaining allegation contained therein.

(a) In response to the allegations of subparagraph 7 (a), the documents speak for themselves. To the extent the remaining allegations of subparagraph 7(a) require a response, the Applicant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations and on that basis denies each and every remaining allegation contained therein.

(b) In response to the allegations of subparagraph 7(b), the documents speak for themselves. To the extent the remaining allegations of subparagraph 7(b) require a response, the Applicant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations and on that basis denies each and every remaining allegation contained therein.

(c) In response to the allegations of subparagraph 7(c), the documents speak for themselves. To the extent the remaining allegations of subparagraph 7(c) require a response, the Applicant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations and on that basis denies each and every remaining allegation contained therein.

(d) In response to the allegations of subparagraph 7(d), the documents speak for themselves. To the extent the remaining allegations of subparagraph 7(d) require a response, the Applicant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations and on that basis denies each and every remaining allegation contained therein.

(e) In response to the allegations of subparagraph 7(e), the documents speak for themselves. To the extent the remaining allegations of subparagraph 7(e) require a response, the Applicant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations and on that basis denies each and every remaining allegation contained therein.

(f) In response to the allegations of subparagraph 7(f), the documents speak for themselves. To the extent the remaining allegations of subparagraph

7(f) require a response, the Applicant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations and on that basis denies each and every remaining allegation contained therein.

(g) In response to the allegations of subparagraph 7(g), the documents speak for themselves. To the extent the remaining allegations of subparagraph 7(g) require a response, the Applicant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations and on that basis denies each and every remaining allegation contained therein.

(h) In response to the allegations of subparagraph 7(h), the documents speak for themselves. To the extent the remaining allegations of subparagraph 7(h) require a response, the Applicant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations and on that basis denies each and every remaining allegation contained therein.

(i) In response to the allegations of subparagraph 7(i), the documents speak for themselves. To the extent the remaining allegations of subparagraph 7(i) require a response, the Applicant is without sufficient knowledge or information to form a belief as to the truth of the remaining and on that basis denies each and every remaining allegation contained therein.

(j) In response to the allegations of subparagraph 7(j), the documents speak for themselves. To the extent the remaining allegations of subparagraph 7(j) require a response, the Applicant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations and on that basis denies each and every remaining allegation contained therein.

(k) In response to the allegations of subparagraph 7(k), the documents speak for themselves. To the extent the remaining allegations of subparagraph 7(k) require a response, the Applicant is without sufficient knowledge or

information to form a belief as to the truth of the remaining allegations and on that basis denies each and every remaining allegation contained therein.

(l) In response to the allegations of subparagraph 7(l), the documents speak for themselves. To the extent the remaining allegations of subparagraph 7(l) require a response, the Applicant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations and on that basis denies each and every remaining allegation contained therein.

(m) In response to the allegations of subparagraph 7(m), the documents speak for themselves. To the extent the remaining allegations of subparagraph 7(m) require a response, the Applicant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations and on that basis denies each and every remaining allegation contained therein.

(n) In response to the allegations of subparagraph 7(n), the documents speak for themselves. To the extent the remaining allegations of subparagraph 7(n) require a response, the Applicant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations and on that basis denies each and every remaining allegation contained therein.

(o) In response to the allegations of subparagraph 7(o), the documents speak for themselves. To the extent the remaining allegations of subparagraph 7(o) require a response, the Applicant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations and on that basis denies each and every remaining allegation contained therein.

(p) In response to the allegations of subparagraph 7(p), the documents speak for themselves. To the extent the remaining allegations of subparagraph 7(p) require a response, the Applicant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations and on that basis denies each and every remaining allegation contained therein.

(q) In response to the allegations of subparagraph 7(q), the documents speak for themselves. To the extent the remaining allegations of subparagraph 7(q) require a response, the Applicant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations and on that basis denies each and every allegation contained therein.

(r) In response to the allegations of subparagraph 7(r), the documents speak for themselves. To the extent the remaining allegations of subparagraph 7(r) require a response, the Applicant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations and on that basis denies each and every remaining allegation contained therein.

8. In response to the allegations of paragraph 8, the allegations are conclusions of law as to which no admission or denial is required. As to the documents referred to therein, the documents speak for themselves. To the extent the remaining allegations of paragraph 8 require a response, the Applicant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations and on that basis denies each and every remaining allegation contained therein.

9. In response to the allegations of paragraph 9, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph and on that basis denies each and every allegation contained therein.

10. In response to the allegations of paragraph 10, Applicant admits that it has a bona fide intention to use or use through a related company the mark, namely WHATTA JERK X-TREME BEEF JERKY in International Class 29, in commerce on or in connection with the goods/services identified in the Application.

11. The Applicant denies the allegations contained in paragraph 11.

12. The Applicant denies the allegations contained in paragraph 12.

13. The Applicant denies the allegations contained in paragraph 13.

14. The Applicant denies the allegations contained in paragraph 14.

AFFIRMATIVE DEFENSES

In further answer to the Notice, Applicant asserts that:

First Affirmative Defense

15. Opposer has failed to allege grounds sufficient to establish its standing to maintain the present opposition.

Second Affirmative Defense

16. Applicant alleges that Opposer has failed to state a claim upon which relief can be granted.

Third Affirmative Defense

17. Applicant alleges that Opposer's claims are barred by virtue of Opposer's acquiescence.

Fourth Affirmative Defense

18. Applicant alleges that Opposer's claims are barred by virtue of the doctrine of laches.

Fifth Affirmative Defense

19. Applicant alleges, on information and belief, that Opposer's claims are barred by the applicable statute of limitation.

Sixth Affirmative Defense

20. Applicant alleges that there is no likelihood of confusion.

Seventh Affirmative Defense

21. Applicant alleges that Plaintiff is precluded from the equitable relief sought herein by virtue of its inequitable conduct.

Eighth Affirmative Defense

22. Applicant alleges that this Court lacks jurisdiction over the person of defendant.

Ninth Affirmative Defense

23. Applicant alleges that Plaintiff has waived any and all rights or interest relating to the subject matter of the Complaint.

Tenth Affirmative Defense

24. Applicant reserves the right to raise additional affirmative defenses as they become known to it through discovery or investigation in this matter, or change in the law.

RELIEF REQUESTED

1. Applicant asks that this opposition proceeding be dismissed and that its registration issue forthwith.

Respectfully submitted,

SCJ ENTERPRISES, INC.

By _____
Einat Ronen
Resch Polster Alpert & Berger LLP
10390 Santa Monica Boulevard,
Fourth Floor
Los Angeles, California 90025
(310) 277-8300

Attorneys for SCJ Enterprises, Inc.

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 10390 Santa Monica Boulevard, Fourth Floor, Los Angeles, California 90025-5058.

The person whose signature appears below confirms that the attached document, **APPLICANT SCJ ENTERPRISES, INC.'S ANSWER TO NOTICE OF OPPOSITION**, has been served upon the interested parties as follows:

J. Timothy Hobbs
Christopher Kelly
Wiley Rein & Fielding LLP
1776 K Street, N.W.
Washington, D.C. 20006

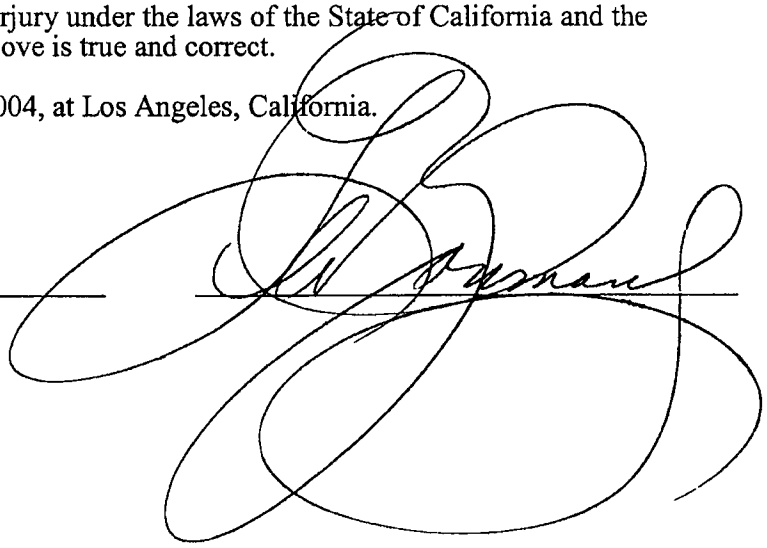
Counsel for WhataPartnership, L.P.

I caused a copy of the above-referenced document to be transmitted by first-class mail to the person served.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the above is true and correct.

Executed on September 7, 2004, at Los Angeles, California.

Flo Youmans
Type or Print Name



Q11614555
3/14/05

PTO Form 2202 (Rev 09/04)

OMB Control #0651-0009 (Exp. 06/30/2005)

Request for Express Abandonment

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	76511369
LAW OFFICE ASSIGNED	LAW OFFICE 116
PUBLISH FOR OPPOSITION DATE	03/23/2004
MARK SECTION	
MARK	WHATTA JERK X-TREME BEEF JERKY
REQUEST FOR EXPRESS ABANDONMENT SECTION	
STATEMENT	The applicant hereby expressly abandons the application for trademark registration made under the serial number identified above.
SIGNATURE SECTION	
SIGNATURE	/Einat Ronen/
SIGNATORY NAME	Einat Ronen
SIGNATORY DATE	03/14/2005
FILING INFORMATION SECTION	
SUBMIT DATE	Mon Mar 14 19:24:40 EST 2005
TEAS STAMP	USPTO/REA-69.226.83.121-2 00503141924405821 99-76511 369-25050a2c7fa246a61d6fe fa3fa4049f34e-N/A-N/A-200 50314192340121032

PTO Form 2202 (Rev 09/04)

OMB Control #0651-0009 (Exp. 06/30/2005)

Request for Express Abandonment

To the Commissioner for Trademarks:

MARK: WHATTA JERK X-TREME BEEF JERKY
SERIAL NUMBER: 76511369

By submission this request, the applicant hereby expressly abandons the application for trademark registration made under the serial number identified above. Except as provided in 37 C.F.R Section 2.135 (concerning the commencement of an opposition, concurrent use, or interference proceeding), the fact that an application has been expressly abandoned shall not, in any proceeding in the United State Patent and Trademark Office, affect any right that the applicant may have in the mark which is the subject of the abandoned application.

Signature: /Einat Ronen/ Date: 03/14/2005
Signatory's Name: Einat Ronen

Serial Number: 76511369
Internet Transmission Date: Mon Mar 14 19:24:40 EST 2005
TEAS Stamp: USPTO/REA-69.226.83.121-2005031419244058
2199-76511369-25050a2c7fa246a61d6fefa3fa
4049f34e-N/A-N/A-20050314192340121032

Exhibit A7

Trademark Trial and Appeal Board Electronic Filing System. http://estta.uspto.gov
ESTTA Tracking number: **ESTTA204250**
Filing date: **04/11/2008**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Whataburger Partnership
Granted to Date of previous extension	07/09/2008
Address	One Whataburger Way Corpus Christi, TX 78411 UNITED STATES

Correspondence information	Christopher Kelly Partner Wiley Rein LLP 1776 K Street, N.W. Washington, DC 20006 UNITED STATES ckelly@wileyrein.com Phone:202-719-7000

Applicant Information

Application No	77286324	Publication date	03/11/2008
Opposition Filing Date	04/11/2008	Opposition Period Ends	07/09/2008
Applicant	TBC Investments Inc. #412 22287 Mulholland Hwy. Calabasas, CA 91302 UNITED STATES		

Goods/Services Affected by Opposition

Class 030.
All goods and services in the class are opposed, namely: Bakery desserts; Bakery goods; Bakery products; Ice cream sandwiches; Cakes; Ice cream

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	652137	Application Date	06/07/1954
Registration Date	09/24/1957	Foreign Priority Date	NONE
Word Mark	WHATABURGER		
Design Mark			

Description of Mark	NONE
Goods/Services	Class U046 (International Class 030). First use: First Use: 1950/01/01 First Use In Commerce: 1953/02/10 HAMBURGER SANDWICH

U.S. Registration No.	891082	Application Date	02/20/1968
Registration Date	05/12/1970	Foreign Priority Date	NONE
Word Mark	WHATABURGER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U100 (International Class 042). First use: First Use: 1950/01/01 First Use In Commerce: 1953/02/10 RESTAURANT SERVICES AND DRIVE IN RESTAURANT SERVICES		

U.S. Registration No.	1011927	Application Date	11/29/1972
Registration Date	05/27/1975	Foreign Priority Date	NONE
Word Mark	WHATABURGER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U045 (International Class 032). First use: First Use: 1972/07/18 First Use In Commerce: 1972/07/28 SOFT DRINKS Class U046 (International Class 029, 030). First use: First Use: 1972/07/18 First Use In Commerce: 1972/07/28 HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, [POTATO CHIPS, CORN CHIPS,] FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANKFURTER SANDWICHES Class U100 (International Class 042). First use: First Use: 1972/07/18 First Use In Commerce: 1972/07/28 RESTAURANT AND DRIVE-IN RESTAURANT SERVICES		

U.S. Registration No.	1011928	Application Date	11/29/1972
Registration Date	05/27/1975	Foreign Priority Date	NONE
Word Mark	W WHATABURGER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U045 (International Class 032). First use: First Use: 1972/07/18 First Use In Commerce: 1972/07/28 SOFT DRINKS Class U046 (International Class 029, 030). First use: First Use: 1972/07/18 First Use In Commerce: 1972/07/28		

	HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, [POTATO CHIPS, CORN CHIPS,] FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANKFURTER SANDWICHES Class U100 (International Class 042). First use: First Use: 1972/07/28 First Use In Commerce: 1972/07/28 RESTAURANT AND DRIVE-IN RESTAURANT SERVICES

U.S. Registration No.	1014196	Application Date	11/26/1973
Registration Date	06/24/1975	Foreign Priority Date	NONE
Word Mark	WHATABURGER JR.		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1973/04/01 First Use In Commerce: 1973/08/29 PREPARED HAMBURGER SANDWICH FOR CONSUMPTION ON OR OFF THE PREMISES		

U.S. Registration No.	1116918	Application Date	01/20/1978
Registration Date	04/24/1979	Foreign Priority Date	NONE
Word Mark	WHATAMEAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1975/07/01 First Use In Commerce: 1975/07/01 PREPARED MEAL CONSISTING OF A HAMBURGER SANDWICH, FRENCH FRIES AND A BEVERAGE FOR CONSUMPTION ON OR OFF THE PREMISES		

U.S. Registration No.	1206344	Application Date	08/10/1979
Registration Date	08/24/1982	Foreign Priority Date	NONE
Word Mark	WHATACATCH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1978/10/14 First Use In Commerce: 1979/04/01 Breaded Fish Fillets Suitable for Fish Sandwiches Class 030. First use: First Use: 1978/10/14 First Use In Commerce: 1979/04/01 Prepared Fish Sandwich for Consumption On or Off the Premises		

U.S. Registration No.	2160285	Application Date	03/24/1997
Registration Date	05/26/1998	Foreign Priority Date	NONE
Word Mark	WHATACHICK'N		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 1984/01/01 First Use In Commerce: 1984/01/01 chicken sandwich

U.S. Registration No.	2335590	Application Date	04/05/1999
Registration Date	03/28/2000	Foreign Priority Date	NONE
Word Mark	WHATABURGER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1950/01/01 First Use In Commerce: 1953/02/10 restaurant services		

U.S. Registration No.	2372372	Application Date	03/05/1999
Registration Date	08/01/2000	Foreign Priority Date	NONE
Word Mark	WHATAKIDS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1998/11/00 First Use In Commerce: 1999/02/15 Clothing for children, namely, shirts, polo shirts, t-shirts, dresses, overalls, onesies, baseball caps and hats		

U.S. Registration No.	2418380	Application Date	05/06/1999
Registration Date	01/02/2001	Foreign Priority Date	NONE
Word Mark	WHATAGUY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 2000/01/01 First Use In Commerce: 2000/01/01 restaurant services		

U.S. Registration No.	2432191	Application Date	02/22/1999
Registration Date	02/27/2001	Foreign Priority Date	NONE
Word Mark	WHATAKIDS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1999/04/01 First Use In Commerce: 1999/04/01		

	restaurant services

U.S. Registration No.	2519854	Application Date	01/02/2001
Registration Date	12/18/2001	Foreign Priority Date	NONE
Word Mark	WHATACOMIX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2000/01/01 First Use In Commerce: 2000/01/01 comic books and children's activity books		

U.S. Registration No.	2534527	Application Date	03/10/1999
Registration Date	01/29/2002	Foreign Priority Date	NONE
Word Mark	WHATAPLACE! WHATATASTE!		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1998/10/11 First Use In Commerce: 1998/10/11 restaurant services		

U.S. Registration No.	2757109	Application Date	10/31/2001
Registration Date	08/26/2003	Foreign Priority Date	NONE
Word Mark	WHATABURGER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2001/10/05 First Use In Commerce: 2001/10/05 Charitable fundraising services		

U.S. Registration No.	2846139	Application Date	12/06/2002
Registration Date	05/25/2004	Foreign Priority Date	NONE
Word Mark	WHATABLENDERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 2002/09/04 First Use In Commerce: 2002/11/04 milk shake drinks, bases for milk shake drinks and candy flavored toppings therefor		

U.S. Registration No.	3185230	Application Date	01/07/2005
Registration Date	12/19/2006	Foreign Priority	NONE

		Date	
Word Mark	WHATASIZE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 1998/00/00 First Use In Commerce: 1998/00/00 Restaurant services featuring a prepared meal containing french fries and a soft drink for consumption on or off the premises		

U.S. Registration No.	3188132	Application Date	03/31/2005
Registration Date	12/19/2006	Foreign Priority Date	NONE
Word Mark	WHATABURGER FIELD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2005/04/06 First Use In Commerce: 2005/04/06 providing stadium facilities for sporting events, exhibitions, conventions, community festival events and concerts		

U.S. Registration No.	3188136	Application Date	04/01/2005
Registration Date	12/19/2006	Foreign Priority Date	NONE
Word Mark	WHATABURGER FIELD CORPUS CHRISTI		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2005/04/06 First Use In Commerce: 2005/04/06 providing stadium facilities for sporting events, exhibitions, conventions, community festival events and concerts		

Attachments	71667794#TMSN.gif (1 page)(bytes) 72291496#TMSN.gif (1 page)(bytes) 72442464#TMSN.gif (1 page)(bytes) 72442465#TMSN.gif (1 page)(bytes) 75674147#TMSN.gif (1 page)(bytes) 75654525#TMSN.gif (1 page)(bytes) 75698642#TMSN.gif (1 page)(bytes) 75647561#TMSN.gif (1 page)(bytes) 76188399#TMSN.gif (1 page)(bytes) 75657290#TMSN.gif (1 page)(bytes) 76332382#TMSN.gif (1 page)(bytes) 76473190#TMSN.gif (1 page)(bytes) 76627124#TMSN.gif (1 page)(bytes) 78598999#TMSN.jpeg (1 page)(bytes) 78599894#TMSN.jpeg (1 page)(bytes) DOC244.PDF (26 pages)(760778 bytes)

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.

Signature	/ck/
Name	Christopher Kelly
Date	04/11/2008

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

WHATABURGER PARTNERSHIP	)	
	)	
Opposer,	)	
	)	Opposition No.: _____
v.	)	Mark: WHATTACAKE & Design
	)	
	)	Ser. No.: 77/286,324
TBC INVESTMENTS INC.	)	
	)	
Applicant.	)	

NOTICE OF OPPOSITION

Whataburger Partnership, a general partnership organized under the laws of Texas, with offices located at One Whataburger Way, Corpus Christi, Texas 78411, hereby opposes registration of application Ser. No. 77/286,324 – WHATTACAKE & Design ("WHATTACAKE") for "bakery desserts; bakery goods; bakery products; ice cream sandwiches; cakes; ice cream," in International Class 30, filed September 21, 2007, by TBC Investments Inc. ("Applicant"), and published for purposes of opposition in the Official Gazette dated March 11, 2008. Whataburger Partnership will be damaged should the opposed application mature to registration. Whataburger Partnership puts forth the following grounds for opposition:

1. Whataburger Partnership is the owner of all right, title and interest in and to the trademarks and service marks pleaded in this Notice of Opposition and licenses said marks for use in connection with the WHATABURGER restaurant system (Whataburger Partnership and its licensees are collectively referred to as "Opposer").

2. Opposer operates over 600 restaurants under the WHATABURGER name.

3. Opposer, through its predecessors in interest, adopted and commenced use of the WHATABURGER name as a service mark for restaurants services in 1950 and has used the name continuously and without interruption to the present day.

4. Opposer uses the WHATABURGER name not only to identify its restaurant services, but also as a trademark to identify food products sold at its restaurants and elsewhere.

5. Opposer has developed a family of WHATA marks to identify its food products, and collateral products and services, such as printed materials, clothing and stadium services.

6. Based on Opposer's extensive, exclusive and continuous use of its WHATABURGER and WHATA marks in connection with restaurant services, food products and collateral goods, the name WHATABURGER and Opposer's other WHATA marks have come to be recognized among the consuming public as designators of origin with respect to said services and products.

7. Opposer is the owner of all right, title and interest in and to the following federal service mark and trademark registrations, which presently are valid and subsisting in law (photocopies are attached hereto as Exhibit A).

(a) Registration No. 652,137 – **WHATABURGER** for "hamburger sandwich," registered on the Principal Register September 24, 1957.

(b) Registration No. 891,082 – **WHATABURGER** for "restaurant services and drive in restaurant services," registered on the Principal Register May 12, 1970.

(c) Registration No. 1,011,927 – **WHATABURGER** for "hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches" and "restaurant and drive-in restaurant services," registered on the Principal Register on May 27, 1975.

(d) Registration No. 1,011,928 – **WHATABURGER & W Design** for "hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches" and "restaurant and drive-in restaurant services," registered on the Principal Register on May 27, 1975.

(e) Registration No. 1,014,196 – **WHATABURGER JR.** for "prepared hamburger sandwich for consumption on or off premises," registered on the Principal Register on June 24, 1975.

(f) Registration No. 1,116,918 – **WHATAMEAL** for "prepared meal consisting of a hamburger sandwich, french fries and a beverage for consumption on or off the premises," registered on the Principal Register April 24, 1979.

(g) Registration No. 1,206,344 – **WHATACATCH** for "breaded fish fillets suitable for fish sandwiches" and "prepared fish sandwich for consumption on or off the premises," registered on the Principal Register August 24, 1982.

(h) Registration No. 2,160,285 – **WHATACHICK'N** for "chicken sandwich," registered on the Principal Register May 26, 1998.

(i) Registration No. 2,335,590 – **WHATABURGER** for "restaurant services," registered on the Principal Register March 28, 2000.

(j) Registration No. 2,372,372 – **WHATAKIDS** for "clothing for children, namely, shirts, polo shirts, t-shirts, dresses, overalls, onesies, baseball caps and hats," registered on the Principal Register August 1, 2000.

(k) Registration No. 2,418,380 – **WHATAGUY** for "restaurant services," registered on the Principal Register January 2, 2000.

(l) Registration No. 2,432,191 – **WHATAKIDS** for "restaurant services," registered on the Principal Register February 27, 2001.

(m) Registration No. 2,519,854 – **WHATACOMIX** for "comic books and children's activity books," registered on the Principal Register December 18, 2001.

(n) Registration No. 2,534,527 – **WHATAPLACE! WHATATASTE!** for "restaurant services," registered on the Principal Register January 29, 2002.

(o) Registration No. 2,757,109 – **WHATABURGER** for "charitable fundraising services," registered on the Principal Register August 26, 2003.

(p) Registration No. 2,846,139 – **WHATABLENDERS** for "milk shake drinks, bases for milk shake drinks and candy flavored toppings," registered on the Principal Register May 25, 2004.

(q) Registration No. 3,185,230 – **WHATASIZE** for "restaurant services featuring a prepared meal containing french fries and a soft drink for consumption on or off the premises," registered on the Principal Register December 19, 2006.

(r) Registration No. 3,188,132 – **WHATABURGER FIELD** for "providing stadium facilities for sporting events, exhibitions, conventions, community festival events and concerts," registered on the Principal Register December 19, 2006.

(s) Registration No. 3,188,136 – **WHATABURGER FIELD & Design** for "providing stadium facilities for sporting events, exhibitions, conventions, community festival events and concerts," registered on the Principal Register December 19, 2006.

8. Many of Opposer's pleaded registrations are incontestable as to the products and services listed therein and are conclusive evidence of the validity of the registered marks, Opposer's ownership thereof, and of Opposer's exclusive right to use the marks in commerce on or in connection with the products and services identified in the registrations.

9. Opposer has invested substantial sums advertising and promoting the sale of its goods and services under its WHATABURGER and WHATA marks. By reason of Opposer's extensive, exclusive and continuous use of its WHATABURGER and WHATA marks, the relevant consuming public has come to recognize the WHATABURGER and WHATA marks as being used by Opposer and to associate and identify the WHATABURGER and WHATA marks with Opposer. Opposer has obtained and enjoys an exceedingly valuable reputation and goodwill symbolized by the WHATABURGER and WHATA marks.

10. The constructive and actual dates of first use of Opposer's WHATABURGER and WHATA marks precede the filing date of the opposed application.

11. On information and belief, Applicant intends to adopt and commence use of the designation WHATTACAKE in connection with food products consisting of bakery desserts; bakery goods; bakery products; ice cream sandwiches; cakes; ice cream.

12. Opposer's food products include various bakery type goods and products such as biscuits, rolls, pies and cookies.

13. The food products identified in the opposed application are closely related, if not identical, to the products and services offered by Opposer under its WHATABURGER and WHATA marks. The products in the opposed application are not restricted as to types of customers and channels of trade.

14. The designation WHATTACAKE so resembles Opposer's WHATABURGER and WHATA marks in terms of appearance, sound, connotation and commercial impression as to be likely, when applied to Applicant's food products, to cause confusion and mistake and to deceive.

15. The designation WHATTACAKE is confusingly similar to Opposer's WHATABURGER and WHATA marks so that registration of the designation would be inconsistent with and damaging to Opposer's exclusive and prior rights in its registered marks in connection with the products and services with which they are used.

16. Any defect, objection or fault found with any food product sold under the designation WHATTACAKE would injure the valuable reputation and goodwill Opposer has established for its products and services sold under its WHATABURGER and WHATA marks.

17. Opposer will be damaged by registration of Applicant's proposed designation.

WHEREFORE, Opposer prays that its opposition be sustained and that the opposed mark be denied registration.

Opposer hereby authorizes the filing fee of THREE HUNDRED DOLLARS ($300.00) and any additional charges necessary to institute this proceeding in two classes to be debited from the deposit account of Wiley Rein, Account No. 501129.

This opposition is being filed by the undersigned attorneys at law, duly authorized to represent Opposer in this proceeding, pursuant to Trademark Rule 2.101(b).

Respectfully submitted,

WHATABURGER PARTNERSHIP

By: _____

J. Timothy Hobbs
Christopher Kelly
Jennifer Elgin
Wiley Rein LLP
1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000

Attorneys for Whataburger Partnership

Dated: April 10, 2008
12825260.1

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 652,137

Registered Sep. 24, 1957

Renewal Term Begins Sep. 24, 1997

TRADEMARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY ASSIGNMENT. CHANGE OF NAME, CHANGE OF NAME, ASSIGNMENT AND MERGER WITH DOBSON, HARMON A. (UNITED STATES CITIZEN) CORPUS CHRISTIE, TX

FOR: HAMBURGER SANDWICH, IN CLASS 46 (INT. CL. 30).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

SER. NO. 71-667,794, FILED 6-7-1954.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on July 29, 1997.

Int. Cl.: 42

Prior U.S. Cl.: 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 891,082
Registered May 12, 1970
Renewal Approved Feb. 15, 1990

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, ASSIGNEE BY ASSIGNMENT, MERGER AND CHANGES OF NAME FROM DOBSON, GRACE W. (UNITED STATES CITIZEN), DOING BUSINESS AS WHATABURGER DRIVE INNS, CORPUS CHRISTI, TX

OWNER OF U.S. REG. NO. 652,137.

FOR: RESTAURANT SERVICES AND DRIVE IN RESTAURANT SERVICES, IN CLASS 100 (INT. CL. 42).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

SER. NO. 72-291,496, FILED 2-20-1968.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 27, 1990.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 29, 30, 32, 42

Prior U.S. Cl.: 45, 46, 100

United States Patent Office

Reg. No. 1,011,927

Registered May 27, 1975

TRADEMARK
SERVICE MARK
Principal Register

WHATABURGER

Whataburger, Inc. (Texas corporation)
3104 S. Alameda
Corpus Christi, Tex. 78404, by merger and change of name from
Whataburger No. 1, Inc. (Texas corporation)
Corpus Christi, Tex.

For: SOFT DRINKS, in CLASS 45 (INT. CL. 32).

For: HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, POTATO CHIPS, CORN CHIPS, FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANKFURTER SANDWICHES, in CLASS 46 (INT. CLS. 29 and 30).

For: RESTAURANT AND DRIVE-IN RESTAURANT SERVICES, in CLASS 100 (INT. CL. 42).

First use July 18, 1972; in commerce July 28, 1972.
The drawing is lined for the colors orange and brown.

Ser. No. 442,464, filed Nov. 29, 1972.

M. MERCHANT, Examiner

Int. Cls.: 29, 30, 32 and 42

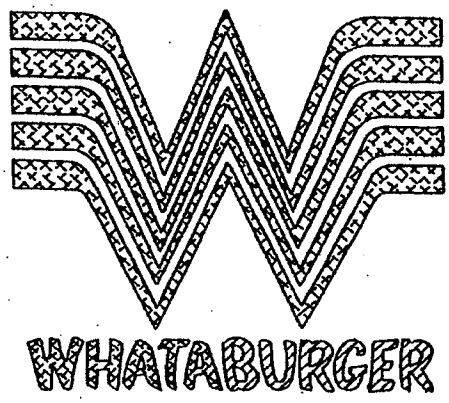
Prior U.S. Cls.: 45, 46 and 100

United States Patent and Trademark Office

Amended

Reg. No. 1,011,928
Registered May 27, 1975
OG Date Sep. 12, 1995

TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER



WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, ASSIGNEE BY CHANGE OF NAME, ASSIGNMENT AND MERGER FROM WHATABURGER INC. (TEXAS CORPORATION) CORPUS CHRISTI, TX

THE DRAWING IS LINED FOR THE COLORS ORANGE AND BROWN, BUT COLOR IS NOT CLAIMED AS A FEATURE OF THE MARK.

FOR: SOFT DRINKS, IN CLASS 45 (INT. CL. 32).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

FOR: HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, [POTATO CHIPS,] CORN CHIPS, FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANKFURTER SANDWICHES, IN CLASS 46 (INT. CLS. 29 AND 30).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Sep. 12, 1995.

COMMISSIONER OF PATENTS AND TRADEMARKS

FOR: RESTAURANT AND DRIVE-IN RESTAURANT SERVICES, IN CLASS 100 (INT. CL. 42).

FIRST USE 7-28-1972; IN COMMERCE 7-28-1972.

SER. NO. 72-442,465, FILED 11-29-1972.

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,014,196

Registered June 24, 1975

10 Year Renewal

Renewal Term Begins June 24, 1995

TRADEMARK
PRINCIPAL REGISTER

WHATABURGER JR.

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY CHANGE OF NAME AND ASSIGNMENT FROM LUTZ, GRACE DOBSON (UNITED STATES CITIZEN) CORPUS CHRISTI, TX

OWNER OF U.S. REG. NOS. 652,137, 891,082 AND 963,811.

FOR: PREPARED HAMBURGER SANDWICH FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 29 (U.S. CL. 46).

FIRST USE 4-1-1973; IN COMMERCE 8-29-1973.

SER. NO. 73-807,283, FILED 11-26-1973.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Aug. 8, 1995.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 1,116,918

United States Patent and Trademark Office

Registered Apr. 24, 1979

10 Year Renewal

Renewal Term Begins Apr. 24, 1999

TRADEMARK
PRINCIPAL REGISTER

WHATAMEAL

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981, BY MERGER WITH WHATABURGER SYSTEMS, INC. (TEXAS CORPORATION) CORPUS CHRISTI, TX

FOR: PREPARED MEAL CONSISTING OF A HAMBURGER SANDWICH, FRENCH FRIES AND A BEVERAGE FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 30 (U.S. CL. 46).

FIRST USE 7-1-1975; IN COMMERCE 7-1-1975.

SER. NO. 73-155,977, FILED 1-20-1978.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 30, 1999.

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,206,344
Registered Aug. 24, 1982

TRADEMARK
Principal Register

WHATACATCH

Whataburger Systems, Inc. (Texas corporation)
3104 S. Alameda
Corpus Christi, Tex. 78404

For: BREADED FISH FILLETS SUITABLE FOR FISH SANDWICHES, in CLASS 29 (U.S. Cl. 46).

First use Oct. 14, 1978; in commerce Apr. 1, 1979.

For: PREPARED FISH SANDWICH FOR CONSUMPTION ON OR OFF THE PREMISES, in CLASS 30 (U.S. Cl. 46).

First use Oct. 14, 1978; in commerce Apr. 1, 1979.

Owner of U.S. Reg. Nos. 652,137, 1,011,928 and others.

Ser. No. 226,971, filed Aug. 10, 1979.

JERRY L. PRICE, Primary Examiner

ROBERT C. CLARK JR., Examiner

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,160,285

Registered May 26, 1998

TRADEMARK
PRINCIPAL REGISTER

WHATACHICK'N

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: CHICKEN SANDWICH, IN CLASS 30 (U.S. CL. 46).

FIRST USE 1-1-1984; IN COMMERCE 1-1-1984.

OWNER OF U.S. REG. NOS. 652,137, 1,116,918 AND OTHERS.

SER. NO. 75-261,844, FILED 3-24-1997.

SUSAN LESLIE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,335,590

United States Patent and Trademark Office

Registered Mar. 28, 2000

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

OWNER OF U.S. REG. NOS. 1,011,927, 2,160,285 AND OTHERS.

SER. NO. 75-674,147, FILED 4-5-1999.

DAVID ETTINGER, EXAMINING ATTORNEY

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

Reg. No. 2,372,372

United States Patent and Trademark Office

Registered Aug. 1, 2000

TRADEMARK
PRINCIPAL REGISTER

WHATAKIDS

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: CLOTHING FOR CHILDREN, NAMELY, SHIRTS, POLO SHIRTS, T-SHIRTS, DRESSES, OVERALLS, ONESIES, BASEBALL CAPS AND HATS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 11-0-1998; IN COMMERCE 2-15-1999.

SER. NO. 75-654,525, FILED 3-5-1999.

SUSAN LESLIE DUBOIS, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,418,380

United States Patent and Trademark Office

Registered Jan. 2, 2001

SERVICE MARK
PRINCIPAL REGISTER

WHATAGUY

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

SN 75-698,642, FILED 5-6-1999.

KATHERINE STOIDES, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,432,191

United States Patent and Trademark Office

Registered Feb. 27, 2001

SERVICE MARK
PRINCIPAL REGISTER

WHATAKIDS

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 4-1-1999; IN COMMERCE 4-1-1999.

SN 75-647,561, FILED 2-22-1999.

MITCHELL FRONT, EXAMINING ATTORNEY

Int. Cl.: 16

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38 and 50

Reg. No. 2,519,854

United States Patent and Trademark Office

Registered Dec. 18, 2001

TRADEMARK
PRINCIPAL REGISTER

WHATACOMIX

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE, SUITE 900
WILMINGTON, DE 19801

FOR: COMIC BOOKS AND CHILDREN'S ACTIVITY BOOKS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

SER. NO. 76-188,399, FILED 1-2-2001.

EDWARD TIMBERLAKE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 2,534,527

Registered Jan. 29, 2002

SERVICE MARK
PRINCIPAL REGISTER

WHATAPLACE! WHATATASTE!

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 10-11-1998; IN COMMERCE 10-11-1998.

SN 75-657,290, FILED 3-10-1999.

JASON TURNER, EXAMINING ATTORNEY

Int. Cl.: 36

Prior U.S. Cls.: 100, 101, and 102

United States Patent and Trademark Office

Reg. No. 2,757,109

Registered Aug. 26, 2003

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE
SUITE 900
WILMINGTON, DE 19801

FOR: CHARITABLE FUNDRAISING SERVICES, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-5-2001; IN COMMERCE 10-5-2001.

SN 76-332,382, FILED 10-31-2001.

RUSS HERMAN, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 2,846,139

United States Patent and Trademark Office

Registered May 25, 2004

TRADEMARK
PRINCIPAL REGISTER

WHATABLENDERS

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE
SUITE 900
WILMINGTON, DE 19801

FOR: MILK SHAKE DRINKS, BASES FOR MILK SHAKE DRINKS AND CANDY FLAVORED TOPPINGS THEREFOR, IN CLASS 30 (U.S. CL. 46).

FIRST USE 9-4-2002; IN COMMERCE 11-4-2002.

OWNER OF U.S. REG. NOS. 1,116,918, 2,409,945, AND OTHERS.

SN 76-473,190, FILED 12-6-2002.

DAWN FELDMAN, EXAMINING ATTORNEY

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,185,230

Registered Dec. 19, 2006

SERVICE MARK
PRINCIPAL REGISTER

WHATASIZE

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE, SUITE 900
WILMINGTON, DE 19801

FOR: RESTAURANT SERVICES FEATURING A PREPARED MEAL CONTAINING FRENCH FRIES AND A SOFT DRINK FOR CONSUMPTION ON OR OFF THE PREMISES , IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 0-0-1998; IN COMMERCE 0-0-1998.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 1,011,927 AND 1,011,928.

SER. NO. 76-627,124, FILED 1-7-2005.

ALICE SUE CARRUTHERS, EXAMINING ATTORNEY

Int. Cl.: 41

Prior U.S. Cls.: 100, 101, and 107

United States Patent and Trademark Office

Reg. No. 3,188,132

Registered Dec. 19, 2006

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER FIELD

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE, SUITE 900
WILMINGTON, DE 19801

FOR: PROVIDING STADIUM FACILITIES FOR SPORTING EVENTS, EXHIBITIONS, CONVENTIONS, COMMUNITY FESTIVAL EVENTS AND CONCERTS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 4-6-2005; IN COMMERCE 4-6-2005.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "FIELD", APART FROM THE MARK AS SHOWN.

SN 78-598,999, FILED 3-31-2005.

JUDITH HELFMAN, EXAMINING ATTORNEY

Int. Cl.: 41

Prior U.S. Cls.: 100, 101, and 107

United States Patent and Trademark Office

Reg. No. 3,188,136

Registered Dec. 19, 2006

SERVICE MARK
PRINCIPAL REGISTER

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE, SUITE 900
WILMINGTON, DE 19801

FOR: PROVIDING STADIUM FACILITIES FOR SPORTING EVENTS, EXHIBITIONS, CONVENTIONS, COMMUNITY FESTIVAL EVENTS AND CONCERTS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 4-6-2005; IN COMMERCE 4-6-2005.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "FIELD CORPUS CHRISTI", APART FROM THE MARK AS SHOWN.

SN 78-599,894, FILED 4-1-2005.

JUDITH HELFMAN, EXAMINING ATTORNEY

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: June 5, 2008

Opposition No. **91183490**

Whataburger Partnership

v.

TBC Investments Inc.

Rochelle Ricks, Paralegal Specialist:

Answer was due in this case on *May 21, 2008*. Inasmuch as it appears that no answer has been filed, nor has applicant filed a motion to extend its time to answer, notice of default is hereby entered against applicant under Fed. R. Civ. P. 55(a).

Applicant is allowed until thirty days from the mailing date of this order to show cause why judgment by default should not be entered against applicant in accordance with Fed. R. Civ. P. 55(b).

NEWS FROM THE TTAB:

The USPTO published a notice of final rulemaking in the Federal Register on August 1, 2007, at 72 F.R. 42242. By this notice, various rules governing Trademark Trial and Appeal Board inter partes proceedings are amended. Certain amendments have an effective date of August 31, 2007, while most have an effective date of November 1, 2007. For further information, the parties are referred to a reprint

of the final rule and a chart summarizing the affected rules, their changes, and effective dates, both viewable on the USPTO website via these web addresses:
http://www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf
http://www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf

By one rule change effective August 31, 2007, the Board's standard protective order is made applicable to all TTAB inter partes cases, whether already pending or commenced on or after that date. However, as explained in the final rule and chart, this change will not affect any case in which any protective order has already been approved or imposed by the Board. Further, as explained in the final rule, parties are free to agree to a substitute protective order or to supplement or amend the standard order even after August 31, 2007, subject to Board approval. The standard protective order can be viewed using the following web address:
http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stndagmnt.htm

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

RR

Mailed: July 21, 2008

Opposition No. **91183490**

Whataburger Partnership

v.

TBC Investments Inc.

On *June 5, 2008*, the Board sent a notice of default to applicant because no answer had been filed.

The record shows no response thereto.

Accordingly, judgment by default is hereby entered against applicant, the opposition is sustained, and registration to applicant is refused. See Fed. R. Civ. P. 55, and Trademark Rule 2.106(a).

By the Trademark Trial and Appeal Board

Exhibit A8

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

WHATAPARTNERSHIP, L.P.,	)	
	)	
Opposer,	)	
	)	Opposition No.: _____
v.	)	
	)	
W.A.B. BAKERY FRANCHISING LTD.	)	
	)	
Applicant.	)	

NOTICE OF OPPOSITION

WhataPartnership, L.P., a limited partnership organized under the laws of Delaware, with offices located at 300 Delaware Avenue, Suite 900, Wilmington, DE 19801, hereby opposes registration of application Ser. No. 78/200,218 – **WHAT A BAGEL & Design** for the following goods and services:

> Bagels, breads, donuts, pastries, and beverages, namely, coffee, including specialty coffees, tea and hot chocolate, in International Class 30;
>
> Restaurant services, namely, operating bakeries, bakery shops, bagel shops, donut shops and pastry/patisserie takeout restaurants, in International Class 43,

filed on January 6, 2003 by W.A.B. Bakery Franchising Ltd. (hereinafter "Applicant"), and published for purposes of opposition in the Official Gazette dated March 16, 2004. WhataPartnership, L.P. will be damaged should the opposed application mature to registration. WhataPartnership, L.P. puts forth the following grounds for opposition:

1. WhataPartnership, L.P. is the owner of all right, title and interest in and to the trademarks and service marks pleaded in this Notice of Opposition and licenses to Whataburger, Inc., a Texas corporation with principal offices at 4600 Parkdale Drive, Corpus Christi, Texas 74811-9230, the right to operate and to authorize franchisees to operate restaurants using the

pleaded trademarks and service marks. (WhataPartnership, L.P. and Whataburger, Inc. are hereinafter collectively referred to as "Opposer.")

2. Opposer, either directly or through its franchisees, operates over 500 restaurants in the United States and Mexico under the WHATABURGER name.

3. Opposer, through its predecessors in interest, adopted and commenced use of the WHATABUGER name as a service mark for restaurants services in 1950 and has used the name continuously and without interruption to the present day.

4. Opposer uses the WHATABURGER name not only to identify its restaurant services, but also as a trademark to identify food products sold at its restaurants.

5. Opposer has developed a family of WHATA marks to its identify food products, and collateral goods such as printed materials and clothing.

6. Based on Opposer's extensive, exclusive and continuous use of its WHATABURGER and WHATA marks in connection with restaurant services, food products and collateral goods, the name WHATABURGER and Opposer's other WHATA marks have come to be recognized among the consuming public as designators of origin with respect to said services and products.

7. Opposer is the owner of all right, title and interest in and to the following federal service mark and trademark registrations, which presently are valid and subsisting in law. Opposer will submit current status and title copies, prepared by the Patent and Trademark Office, of its pleaded registrations at the appropriate time in this proceeding. Photocopies are attached hereto as Exhibit A.

(a) Registration No. 652,137 – **WHATABURGER** for "hamburger sandwich," registered on the Principal Register September 24, 1957.

(b) Registration No. 891,082 – **WHATABURGER** for "restaurant services and drive in restaurant services," registered on the Principal Register May 12, 1970.

PAGE 4/25 * RCVD AT 6/30/2004 3:36:45 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/4 * DNIS:7467093 * CSID:Wiley Rein Fielding * DURATION (mm-ss):06-08

(c) Registration No. 1,011,927 – **WHATABURGER** for "hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches" and "restaurant and drive-in restaurant services," registered on the Principal Register on May 27, 1975.

(d) Registration No. 1,011,928 – **WHATABURGER & W Design** for "hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches" and "restaurant and drive-in restaurant services," registered on the Principal Register on May 27, 1975.

(e) Registration No. 1,014,196 – **WHATABURGER JR.** for "prepared hamburger sandwich for consumption on or off premises," registered on the Principal Register on June 24, 1975.

(f) Registration No. 1,116,918 – **WHATAMEAL** for "prepared meal consisting of a hamburger sandwich, french fries and a beverage for consumption on or off the premises," registered on the Principal Register April 24, 1979.

(g) Registration No. 1,206,344 – **WHATACATCH** for "breaded fish fillets suitable for fish sandwiches" and "prepared fish sandwich for consumption on or off the premises," registered on the Principal Register August 24, 1982.

(h) Registration No. 2,150,703 – **WHATASIZE IT!** for "restaurant services featuring a prepared meal containing french fries and a soft drink for consumption on or off the premises," registered on the Principal Register April 14, 1998.

(i) Registration No. 2,160,285 – **WHATACHICK'N** for "chicken sandwich," registered on the Principal Register May 26, 1998.

(j) Registration No. 2,335,590 – **WHATABURGER** for "restaurant services," registered on the Principal Register March 28, 2000.

(k) Registration No. 2,372,372 – **WHATAKIDS** for "clothing for children, namely, shirts, polo shirts, t-shirts, dresses, overalls, onesies, baseball caps and hats," registered on the Principal Register August 1, 2000.

(l) Registration No. 2,409,945 – **WHATACHILL** for "frozen flavored fruit drinks offered for sale exclusively through applicant's restaurants," registered on the Principal Register December 5, 2000.

(m) Registration No. 2,418,380 – **WHATAGUY** for "restaurant services," registered on the Principal Register January 2, 2000.

(n) Registration No. 2,432,191 – **WHATAKIDS** for "restaurant services," registered on the Principal Register February 27, 2001.

PAGE 5/25 * RCVD AT 6/30/2004 3:36:45 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/4 * DNIS:7467093 * CSID:Wiley Rein Fielding * DURATION (mm-ss):06-08

(o) Registration No. 2,519,854 – **WHATACOMIX** for "comic books and children's activity books," registered on the Principal Register December 18, 2001.

(p) Registration No. 2,534,527 – **WHATAPLACE! WHATATASTE!** for "restaurant services," registered on the Principal Register January 29, 2002.

(q) Registration No. 2,757,109 – **WHATABURGER** for "charitable fundraising services," registered on the Principal Register August 26, 2003.

8. Opposer's Reg. Nos. 652,137; 891,082: 1,011,927; 1,011,928; 1,014,196; 1,116,918; 1,206,344; 2,150,703; and 2,160,285 are incontestable as to the products and services listed therein and are conclusive evidence of the validity of the registered marks, Opposer's ownership thereof, and of Opposer's exclusive right to use the marks in commerce on or in connection with the products and services identified in the registrations.

9. By reason of Opposer's extensive, exclusive and continuous use of its WHATABURGER and WHATA marks, Opposer has become known and recognized as the owner of the aforesaid marks.

10. On information and belief, Applicant intends to adopt and commence use of the designation WHAT A BAGEL & Design in connection with the products and services identified in the opposed application.

11. The products and services identified in the opposed application are substantially identical to the products and services offered by Opposer under its WHATABURGER and WHATA marks.

12. The proposed designation WHAT A BAGEL & Design so resembles Opposer's WHATABURGER and WHATA marks in terms of appearance, sound, connotation and commercial impression as to be likely, when applied to the products and services identified in the opposed application, to cause confusion and mistake and to deceive.

PAGE 6/25 * RCVD AT 6/30/2004 3:36:45 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/4 * DNIS:7467093 * CSID:Wiley Rein Fielding * DURATION (mm-ss):06-08

13. Applicant's proposed designation is confusingly similar to Opposer's WHATABURGER and WHATA marks so that registration of Applicant's proposed designation would be inconsistent with and damaging to Opposer's exclusive rights in and to its registered marks in connection with the products and services with which they are used.

14. Opposer will be damaged by registration of Applicant's proposed designation.

WHEREFORE, Opposer prays that its opposition be sustained and that Applicant's proposed mark be denied registration.

Opposer hereby authorizes the filing fee of SIX HUNDRED DOLLARS ($600.00) and any additional charges necessary to institute this proceeding in two classes to be debited from the deposit account of Wiley Rein & Fielding, Account No. 501129.

This opposition is being filed by the undersigned attorneys at law, duly authorized to represent Opposer in this proceeding, pursuant to Trademark Rule 2.101(b).

Respectfully submitted,

WHATAPARTNERSHIP, L.P.

By: _____

J. Timothy Hobbs
Christopher Kelly
Wiley Rein & Fielding LLP
1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000

Attorneys for WhataPartnership, L.P.

Dated: May 13, 2004
WRFMAIN 1Z203568.1

PAGE 7/25 * RCVD AT 6/30/2004 3:36:45 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/4 * DNIS:7467093 * CSID:Wiley Rein Fielding * DURATION (mm-ss):06-08

EXHIBIT A

Int. Cl.: 30
Prior U.S. Cl.: 46
United States Patent and Trademark Office
10 Year Renewal

Reg. No. 652,137
Registered Sep. 24, 1957
Renewal Term Begins Sep. 24, 1997

TRADEMARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY ASSIGNMENT; CHANGE OF NAME, CHANGE OF NAME, ASSIGNMENT AND MERGER WITH DOBSON, HARMON A. (UNITED STATES CITIZEN) CORPUS CHRISTIE, TX

FOR: HAMBURGER SANDWICH, IN CLASS 46 (INT. CL. 30).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

SER. NO. 71-667,794, FILED 6-7-1954.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on July 29, 1997.

Int. Cl.: 42

Prior U.S. Cl.: 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 891,082
Registered May 12, 1970
Renewal Approved Feb. 15, 1990

SERVICE MARK.
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, ASSIGNEE BY ASSIGNMENT, MERGER AND CHANGES OF NAME FROM DOBSON, GRACE W. (UNITED STATES CITIZEN), DOING BUSINESS AS WHATABURGER DRIVE INNS, CORPUS CHRISTI, TX

OWNER OF U.S. REG. NO. 652,137.

FOR: RESTAURANT SERVICES AND DRIVE IN RESTAURANT SERVICES, IN CLASS 100 (INT. CL. 42).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

SER. NO. 72-291,494, FILED 2-20-1968.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 27, 1990.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cls.: 29, 30, 32 and 42

Prior U.S. Cls.: 45, 46 and 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 1,011,927

Registered May 27, 1975

Renewal Term Begins May 27, 1995

TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY CHANGE OF NAME, ASSIGNMENT AND MERGER WITH WHATABURGER, INC. (TEXAS CORPORATION) CORPUS CHRISTI, TX

THE DRAWING IS LINED FOR THE COLORS ORANGE AND BROWN, BUT COLOR IS NOT CLAIMED AS A FEATURE OF THE MARK.

FOR: SOFT DRINKS, IN CLASS 45 (INT. CL. 32).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

FOR: HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, [POTATO CHIPS, CORN CHIPS,] FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANKFURTER SANDWICHES, IN CLASS 46 (INT. CLS. 29 AND 30).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

FOR: RESTAURANT AND DRIVE-IN RESTAURANT SERVICES, IN CLASS 100 (INT. CL. 42).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

SER. NO. 72-442,464, FILED 11-29-1972.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on July 2, 1996.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cls.: 29, 30, 32 and 42

Prior U.S. Cls.: 45, 46 and 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 1,011,928

Registered May 27, 1975

Renewal Term Begins May 27, 1995

TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY CHANGE OF NAME, ASSIGNMENT AND MERGER WITH LUTZ, GRACE DOBSON (UNITED STATES CITIZEN), AKA GRACE W. DOBSON, CORPUS CHRISTI, TX

THE DRAWING IS LINED FOR THE COLORS ORANGE AND BROWN, BUT COLOR IS NOT CLAIMED AS A FEATURE OF THE MARK.

FOR: SOFT DRINKS, IN CLASS 45 (INT. CL. 32).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

FOR: HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, [POTATO CHIPS, CORN CHIPS,] FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANK-

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 5, 1996.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,014,196

Registered June 24, 1975

10 Year Renewal

Renewal Term Begins June 24, 1995

TRADEMARK
PRINCIPAL REGISTER

WHATABURGER JR.

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY CHANGE OF NAME AND ASSIGNMENT FROM LUTZ GRACE DOBSON (UNITED STATES CITIZEN) CORPUS CHRISTI, TX

OWNER OF U.S. REG. NOS. 652,137, 891,082 AND 963,881.

FOR: PREPARED HAMBURGER SANDWICH FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 29 (U.S. CL. 46).

FIRST USE 6-1-1973; IN COMMERCE 8-29-1973.

SER. NO. 73-017,283, FILED 11-26-1973.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Aug. 8, 1995.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 30
Prior U.S. Cl.: 46
United States Patent and Trademark Office
10 Year Renewal

Reg. No. 1,116,918
Registered Apr. 24, 1979
Renewal Term Begins Apr. 24, 1999

TRADEMARK
PRINCIPAL REGISTER

WHATAMEAL

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981, BY MERGER WITH WHATABURGER SYSTEMS, INC. (TEXAS CORPORATION) CORPUS CHRISTI, TX

FOR: PREPARED MEAL CONSISTING OF A HAMBURGER SANDWICH, FRENCH FRIES AND A BEVERAGE FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 30 (U.S. CL. 46).
FIRST USB 7-1-1975; IN COMMERCE 7-1-1975.

SER. NO. 73-155,977, FILED 1-20-1978.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 30, 1999.

Int. Cls.: 29 and 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,206,344
Registered Aug. 24, 1982

TRADEMARK
Principal Register

WHATACATCH

Whataburger Systems, Inc. (Texas corporation)
3104 S. Alameda
Corpus Christi, Tex. 78404

For: BREADED FISH FILLETS SUITABLE FOR FISH SANDWICHES, in CLASS 29 (U.S. Cl. 46).

First use Oct. 14, 1978; in commerce Apr. 1, 1979.

For: PREPARED FISH SANDWICH FOR CONSUMPTION ON OR OFF THE PREMISES, in CLASS 30 (U.S. Cl. 46).

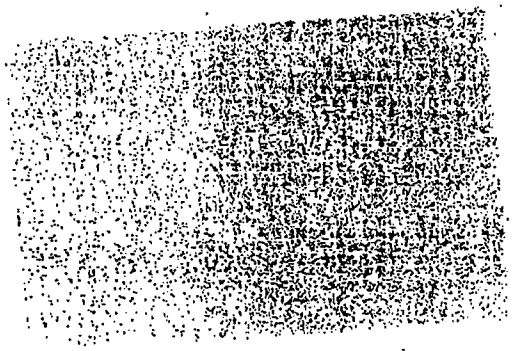
First use Oct. 14, 1978; in commerce Apr. 1, 1979.

Owner of U.S. Reg. Nos. 652,137, 1,011,928 and others.

Ser. No. 226,971, filed Aug. 10, 1979.

JERRY L. PRICE, Primary Examiner

ROBERT C. CLARK JR., Examiner



Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,150,703

United States Patent and Trademark Office

Registered Apr. 14, 1998

SERVICE MARK
PRINCIPAL REGISTER

WHATASIZE IT!

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES FEATURING A PREPARED MEAL CONTAINING FRENCH FRIES AND A SOFT DRINK FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 7-4-1994; IN COMMERCE 7-4-1994.

OWNER OF U.S. REG. NOS. 652,137, 1,116,918 AND OTHERS.

SER. NO. 75-261,843, FILED 3-24-1997.

ALICE SUE CARRUTHERS, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,160,285

Registered May 26, 1998

TRADEMARK
PRINCIPAL REGISTER

WHATACHICK'N

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411-2981

FOR: CHICKEN SANDWICH, IN CLASS 30 (U.S. CL. 46).

FIRST USE 1-1-1984; IN COMMERCE 1-1-1984.

OWNER OF U.S. REG. NOS. 652,137, 1,116,918 AND OTHERS.

SER. NO. 75-261,844, FILED 3-24-1997.

SUSAN LESLIE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,335,590

United States Patent and Trademark Office

Registered Mar. 28, 2000

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

OWNER OF U.S. REG. NOS. 1,011,927, 2,160,285 AND OTHERS.

SER. NO. 75-674,147, FILED 4-5-1999.

DAVID ETTINGER, EXAMINING ATTORNEY

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

Reg. No. 2,372,372

United States Patent and Trademark Office

Registered Aug. 1, 2000

TRADEMARK
PRINCIPAL REGISTER

WHATAKIDS

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: CLOTHING FOR CHILDREN, NAMELY, SHIRTS, POLO SHIRTS, T-SHIRTS, DRESSES, OVERALLS, ONESIES, BASEBALL CAPS AND HATS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 11-0-1998; IN COMMERCE 2-15-1999.

SER. NO. 75-654,525, FILED 3-5-1999.

SUSAN LESLIE DUBOIS, EXAMINING ATTORNEY

Int. Cl.: 32

Prior U.S. Cls.: 45, 46 and 48

Reg. No. 2,409,945

United States Patent and Trademark Office

Registered Dec. 5, 2000

TRADEMARK
PRINCIPAL REGISTER

WHATACHILL

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: FROZEN FLAVORED FRUIT DRINKS OFFERED FOR SALE EXCLUSIVELY THROUGH APPLICANT'S RESTAURANTS, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 10-0-1997; IN COMMERCE 10-0-1997.

SER. NO. 75-621,986, FILED 1-15-1999.

MITCHELL FRONT, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,418,380

United States Patent and Trademark Office

Registered Jan. 2, 2001

SERVICE MARK
PRINCIPAL REGISTER

WHATAGUY

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

SN 75-698,642, FILED 5-6-1999.

KATHERINE STOIDES, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,432,191

United States Patent and Trademark Office

Registered Feb. 27, 2001

SERVICE MARK
PRINCIPAL REGISTER

WHATAKIDS

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 4-1-1999; IN COMMERCE 4-1-1999.

SN 75-647,561, FILED 2-22-1999.

MITCHELL FRONT, EXAMINING ATTORNEY

Int. Cl.: 16

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38 and 50

Reg. No. 2,519,854

United States Patent and Trademark Office

Registered Dec. 18, 2001

TRADEMARK
PRINCIPAL REGISTER

WHATACOMIX

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE, SUITE 900
WILMINGTON, DE 19801

FOR: COMIC BOOKS AND CHILDREN'S ACTIVITY BOOKS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

SER. NO. 76-188,399, FILED 1-2-2001.

EDWARD TIMBERLAKE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 2,534,527

Registered Jan. 29, 2002

SERVICE MARK
PRINCIPAL REGISTER

WHATAPLACE! WHATATASTE!

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 10-11-1998; IN COMMERCE 10-11-1998.

SN 75-657,290, FILED 3-10-1999.

JASON TURNER, EXAMINING ATTORNEY

Int. Cl.: 36

Prior U.S. Cls.: 100, 101, and 102

United States Patent and Trademark Office

Reg. No. 2,757,109
Registered Aug. 26, 2003

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE
SUITE 900
WILMINGTON, DE 19801

FOR: CHARITABLE FUNDRAISING SERVICES, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-5-2001; IN COMMERCE 10-5-2001.

SN 76-332,382, FILED 10-31-2001.

RUSS HERMAN, EXAMINING ATTORNEY

Wiley Rein & Fielding LLP

1776 K STREET NW
WASHINGTON, DC 20006

PHONE 202.719.7000
FAX 202.719.7049

Facsimile

TO: **JEAN BROWN** FAX NUMBER: **703-746-7093** PHONE NUMBER:

FROM		PHONE NUMBER	
DATE	**6/30/2004 3:38:10 PM**	TOTAL PAGE COUNT	**25**
USER NUMBER		CLIENT NUMBER	

MESSAGE

Please contact if you do not receive this facsimile in its entirety.

Confidentiality Note: The information contained in this facsimile message is legally privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this facsimile message is strictly prohibited. If you have received this message in error, please immediately notify us by telephone and return the original message to us at the address above via the United States Postal Service. *Thank you.*

Serial/Reg. No.: _____ Docket No. [illegible]

Mark: WHATABAGEL & Design

Applicant/Registrant: Whata Partnerships

The following was/were received in the U.S. PTO Mail Room on the date stamped hereon:

1. ___ Filing form for new application in I.C. (s) _____
Basis (circle applicable):
Intent to Use / Use / Priority under Sec. 44d
___ Statement and Declaration
___ Executed Power of Attorney
___ Drawing of Proposed Mark
___ Specimens of Mark as Used

2. ___ Response to Office Action
___ Certified copy of foreign registration
___ Amendment to the application

3. ___ Communication
___ Statement of Use
___ Amendment to Allege Use

4. ___ Request Charge to Firm Deposit Account (501129)
Amount: $600.00

5. ___ Request for Correction
___ Of Filing Receipt
___ Of Certificate of Registration

6. ___ Status Inquiry
7. ___ Declaration under Section 8
8. ___ Declaration under Section 9
9. ___ Declaration under Section 15
10. ___ Assignment of Interest in Trademark
11. ___ Petition for Extension of Time
___ To File Notice of Opposition - ____ days
___ To File Statement of Use
12. ___ Other Extension of Time:
_____
_____
13. ✓ Notice of Opposition
14. ___ Notice of Appeal
15. ___ Petition for Cancellation
16. ___ Check # _____ $ _____
17. ___ Other:
_____
_____
_____
_____
_____
_____
_____

OIPE JC76
MAY 14 2004
PATENT & TRADEMARK OFFICE

91161129

UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Applicant:	W.A.B. Bakery Franchising Ltd.
Mark:	What A Bagel!
Ser. No.:	78200218
Filing Date:	January 6, 2003

Box Responses - No Fee
Assistant Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451
Attn: Katherine Stoides, Examining Attorney
Law Office 110
United States Patent and Trademark Office
(571) 272-9230

LETTER OF EXPRESS ABANDONMENT

Pursuant to 37 C.F.R. § 2.68, Applicant hereby expressly abandons the above identified Application.

Respectfully Submitted,

By: _____

Scott R. Austin
Florida Bar No. 0434140
ARNSTEIN & LEHR LLP
2424 North Fed. Highway, Suite 462
Boca Raton, Florida 33431
Telephone (561) 322-6900

Dated: April 1, 2005
Our Ref: 20681.0007
Express Mail Number: ED 723059405

28763_1

[redacted]

04-04-2005
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #64

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

em

Mailed: May 26, 2005

Opposition No. 91161129

WhataPartnership, L.P.

v.

W.A.B. Bakery Franchising Ltd.

On April 4, 2005, applicant filed an abandonment of its application Serial No. 78200218 under Trademark Rule 2.68.[1]

However, the applicable rule is Trademark Rule 2.135, which provides that if, in an inter partes proceeding, the applicant files an abandonment without the written consent of every adverse party to the proceeding, judgment shall be entered against the applicant.

Accordingly, because opposer's written consent to the abandonment is not of record, judgment is hereby entered against applicant, the opposition is sustained and

---

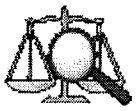
[1] Applicant's abandonment does not indicate proof of service of a copy of same on counsel for opposer as required by Trademark Rule 2.119. In order to expedite this matter, a copy of said abandonment is forwarded herewith to counsel for opposer.

registration to applicant is refused.

By the Trademark Trial and Appeal Board

Exhibit A9

United States Patent and Trademark Office



TTABVUE. Trademark Trial and Appeal Board Inquiry System v1.5

Opposition

Number: 91060325 **Filing Date:** 11/28/1977

Status: Terminated **Status Date:** 11/21/1980

Defendant

Name: W. H. THOMPSON AND SON

Serial #: 73103726 Application File **Registration #:** 1149107

Application Status: Cancelled - Section 8

Mark: WHATAMELON

Plaintiff

Name: WHATABURGER SYSTEMS, INC.

Serial #: 71667794 Application File **Registration #:** 652137

Application Status: Renewed

Mark: WHATABURGER

Prosecution History

#	Date	History Text
5	11/21/1980	TERMINATED
4	09/25/1980	BD'S DECISION: DISMISSED W/ PREJUDICE
3	10/02/1978	ANSWER
2	02/06/1978	PENDING, INSTITUTED
1	11/28/1977	FILED

5HVXQMDMRIIIIIIIIIIIIIIIIIII30 **Back to search results** **Search:**

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-03-28 19:32:59 ET

Serial Number: 73103726 Assignment Information Trademark Document Retrieval

Registration Number: 1149107

Mark (words only): WHATAMELON

Standard Character claim: No

Current Status: Registration cancelled because registrant did not file an acceptable declaration under Section 8. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

Date of Status: 1987-07-24

Filing Date: 1977-02-04

Transformed into a National Application: No

Registration Date: 1981-03-24

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 001 -File Destroyed

Date In Location: 1994-04-16

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. W. H. Thompson and Son

Composed Of:
Partnership composed of W. H. Thompson and Donnie Thompson (United States citizens)
Address:
W. H. Thompson and Son
Rte. 2
Harlingen, TX 78550
United States
Legal Entity Type: Partnership

State or Country Where Organized: (NOT AVAILABLE)

GOODS AND/OR SERVICES

International Class: 031
Class Status: Section 8 - Cancelled
Watermelons, Cantaloupes, Honeydews and Other Melons
Basis: 1(a)
First Use Date: 1976-08-06
First Use in Commerce Date: 1976-08-06

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

1987-07-24 - Canceled Section 8 (6-year)

1981-03-24 - Registered - Principal Register

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Frank P. Cyr

Correspondent
Frank P. Cyr
Suite 304A
2001 Jefferson Davis Hwy.
Arlington VA 22202

Exhibit A10

Trademark Trial and Appeal Board Electronic Filing System. http://estta.uspto.gov
ESTTA Tracking number: **ESTTA244223**
Filing date: **10/22/2008**

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

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Whataburger Partnership L.P.		
Entity	Partnership	Citizenship	Texas
Composed Of:	Thomas E. Dobson Hugh Dobson Lynne Dobson		
Address	One Whataburger Way Corpus Christi, TX 78411 UNITED STATES		

Attorney information	Christopher Kelly WILEY REIN LLP 1776 K Street, N.W. Washington, DC 20006 UNITED STATES ckelly@wileyrein.com Phone:202-719-7000

Registration Subject to Cancellation

Registration No	3389431	Registration date	02/26/2008
Registrant	Agroamerica Corporation Avenida Las Americas 22-83 Zona 14 Ciudad Guatemala, GUATEMALA		

Goods/Services Subject to Cancellation

Class 031. First Use: 2006/12/03 First Use In Commerce: 2006/12/03 All goods and services in the class are cancelled, namely: Fresh fruits; Fresh vegetables

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	652137	Application Date	06/07/1954
Registration Date	09/24/1957	Foreign Priority Date	NONE
Word Mark	WHATABURGER		

Design Mark	WHATABURGER
Description of Mark	NONE
Goods/Services	Class U046 (International Class 030). First use: First Use: 1950/01/01 First Use In Commerce: 1953/02/10 HAMBURGER SANDWICH

U.S. Registration No.	891082	Application Date	02/20/1968
Registration Date	05/12/1970	Foreign Priority Date	NONE
Word Mark	WHATABURGER		
Design Mark	WHATABURGER		
Description of Mark	NONE		
Goods/Services	Class U100 (International Class 042). First use: First Use: 1950/01/01 First Use In Commerce: 1953/02/10 RESTAURANT SERVICES AND DRIVE IN RESTAURANT SERVICES		

U.S. Registration No.	1116918	Application Date	01/20/1978
Registration Date	04/24/1979	Foreign Priority Date	NONE
Word Mark	WHATAMEAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1975/07/01 First Use In Commerce: 1975/07/01 PREPARED MEAL CONSISTING OF A HAMBURGER SANDWICH, FRENCH FRIES AND A BEVERAGE FOR CONSUMPTION ON OR OFF THE PREMISES		

U.S. Registration No.	1206344	Application Date	08/10/1979
Registration Date	08/24/1982	Foreign Priority Date	NONE
Word Mark	WHATACATCH		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 029. First use: First Use: 1978/10/14 First Use In Commerce: 1979/04/01 Breaded Fish Fillets Suitable for Fish Sandwiches Class 030. First use: First Use: 1978/10/14 First Use In Commerce: 1979/04/01 Prepared Fish Sandwich for Consumption On or Off the Premises

U.S. Registration No.	2160285	Application Date	03/24/1997
Registration Date	05/26/1998	Foreign Priority Date	NONE
Word Mark	WHATACHICK'N		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1984/01/01 First Use In Commerce: 1984/01/01 chicken sandwich		

U.S. Registration No.	2335590	Application Date	04/05/1999
Registration Date	03/28/2000	Foreign Priority Date	NONE
Word Mark	WHATABURGER		
Design Mark	WHATABURGER		
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1950/01/01 First Use In Commerce: 1953/02/10 restaurant services		

U.S. Registration No.	2418380	Application Date	05/06/1999
Registration Date	01/02/2001	Foreign Priority Date	NONE
Word Mark	WHATAGUY		
Design Mark	WHATAGUY		

Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 2000/01/01 First Use In Commerce: 2000/01/01 restaurant services

U.S. Registration No.	2432191	Application Date	02/22/1999
Registration Date	02/27/2001	Foreign Priority Date	NONE
Word Mark	WHATAKIDS		
Design Mark	WHATAKIDS		
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1999/04/01 First Use In Commerce: 1999/04/01 restaurant services		

U.S. Registration No.	2519854	Application Date	01/02/2001
Registration Date	12/18/2001	Foreign Priority Date	NONE
Word Mark	WHATACOMIX		
Design Mark	WHATACOMIX		
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2000/01/01 First Use In Commerce: 2000/01/01 comic books and children's activity books		

U.S. Registration No.	2757109	Application Date	10/31/2001
Registration Date	08/26/2003	Foreign Priority Date	NONE
Word Mark	WHATABURGER		

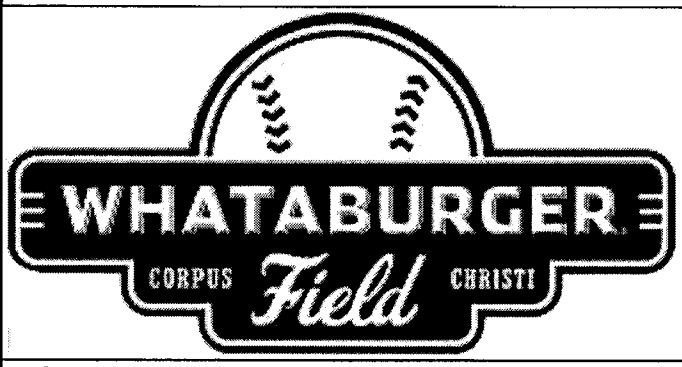
Design Mark	WHATABURGER
Description of Mark	NONE
Goods/Services	Class 036. First use: First Use: 2001/10/05 First Use In Commerce: 2001/10/05 Charitable fundraising services

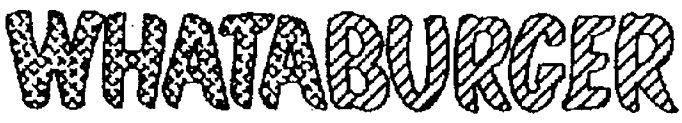
U.S. Registration No.	2846139	Application Date	12/06/2002
Registration Date	05/25/2004	Foreign Priority Date	NONE
Word Mark	WHATABLENDERS		
Design Mark	WHATABLENDERS		
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 2002/09/04 First Use In Commerce: 2002/11/04 milk shake drinks, bases for milk shake drinks and candy flavored toppings therefor		

U.S. Registration No.	3185230	Application Date	01/07/2005
Registration Date	12/19/2006	Foreign Priority Date	NONE
Word Mark	WHATASIZE		
Design Mark	WHATASIZE		
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 1998/00/00 First Use In Commerce: 1998/00/00 Restaurant services featuring a prepared meal containing french fries and a soft drink for consumption on or off the premises		

U.S. Registration No.	3188132	Application Date	03/31/2005
Registration Date	12/19/2006	Foreign Priority Date	NONE
Word Mark	WHATABURGER FIELD		

Design Mark	WHATABURGER FIELD
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2005/04/06 First Use In Commerce: 2005/04/06 providing stadium facilities for sporting events, exhibitions, conventions, community festival events and concerts

U.S. Registration No.	3188136	Application Date	04/01/2005
Registration Date	12/19/2006	Foreign Priority Date	NONE
Word Mark	WHATABURGER FIELD CORPUS CHRISTI		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2005/04/06 First Use In Commerce: 2005/04/06 providing stadium facilities for sporting events, exhibitions, conventions, community festival events and concerts		

U.S. Registration No.	1011927	Application Date	11/29/1972
Registration Date	05/27/1975	Foreign Priority Date	NONE
Word Mark	WHATABURGER		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class U045 (International Class 032). First use: First Use: 1972/07/18 First Use In Commerce: 1972/07/28 SOFT DRINKS Class U046 (International Class 029, 030). First use: First Use: 1972/07/18 First Use In Commerce: 1972/07/28 HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, [POTATO CHIPS, CORN CHIPS,] FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANKFURTER SANDWICHES Class U100 (International Class 042). First use: First Use: 1972/07/18 First Use In Commerce: 1972/07/28 RESTAURANT AND DRIVE-IN RESTAURANT SERVICES

U.S. Registration No.	1011928	Application Date	11/29/1972
Registration Date	05/27/1975	Foreign Priority Date	NONE
Word Mark	W WHATABURGER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U045 (International Class 032). First use: First Use: 1972/07/18 First Use In Commerce: 1972/07/28 SOFT DRINKS Class U046 (International Class 029, 030). First use: First Use: 1972/07/18 First Use In Commerce: 1972/07/28 HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, [POTATO CHIPS, CORN CHIPS,] FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANKFURTER SANDWICHES Class U100 (International Class 042). First use: First Use: 1972/07/28 First Use In Commerce: 1972/07/28 RESTAURANT AND DRIVE-IN RESTAURANT SERVICES		

U.S. Registration No.	2372372	Application Date	03/05/1999
Registration Date	08/01/2000	Foreign Priority Date	NONE
Word Mark	WHATAKIDS		

Design Mark	**WHATAKIDS**
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1998/11/00 First Use In Commerce: 1999/02/15 Clothing for children, namely, shirts, polo shirts, t-shirts, dresses, overalls, onesies, baseball caps and hats

U.S. Registration No.	2534527	Application Date	03/10/1999
Registration Date	01/29/2002	Foreign Priority Date	NONE
Word Mark	WHATAPLACE! WHATATASTE!		
Design Mark	**WHATAPLACE! WHATATASTE!**		
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1998/10/11 First Use In Commerce: 1998/10/11 restaurant services		

U.S. Registration No.	1014196	Application Date	11/26/1973
Registration Date	06/24/1975	Foreign Priority Date	NONE
Word Mark	WHATABURGER JR.		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1973/04/01 First Use In Commerce: 1973/08/29 PREPARED HAMBURGER SANDWICH FOR CONSUMPTION ON OR OFF THE PREMISES		

Attachments	71667794#TMSN.gif (1 page)(bytes) 72291496#TMSN.gif (1 page)(bytes) 75674147#TMSN.gif (1 page)(bytes) 75698642#TMSN.gif (1 page)(bytes) 75647561#TMSN.gif (1 page)(bytes) 76188399#TMSN.gif (1 page)(bytes) 76332382#TMSN.gif (1 page)(bytes) 76473190#TMSN.gif (1 page)(bytes) 76627124#TMSN.gif (1 page)(bytes) 78598999#TMSN.jpeg (1 page)(bytes) 78599894#TMSN.jpeg (1 page)(bytes) 72442464#TMSN.gif (1 page)(bytes) 72442465#TMSN.gif (1 page)(bytes)

	75654525#TMSN.gif (1 page)(bytes) 75657290#TMSN.gif (1 page)(bytes) WATTA.PDF (6 pages)(301963 bytes)

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.

Signature	/Christopher Kelly/
Name	Christopher Kelly
Date	10/22/2008

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

WHATABURGER PARTNERSHIP L.P.	)	
	)	
Petitioner,	)	
	)	Cancellation No.: _____
v.	)	Mark: WATTA
	)	Reg. No.: 3,389,431
AGROAMERICA CORPORATION	)	
	)	
Respondent.	)	

PETITION TO CANCEL

Whataburger Partnership, a general partnership organized under the laws of Texas, with offices located at One Whataburger Way, Corpus Christi, Texas 78411, hereby petitions to cancel Registration No. 3,389,431 – WATTA for "fresh fruits; fresh vegetables," in International Class 31, registered on the Principal Register February 26, 2008, by Agroamerica Corporation ("Registrant"). Whataburger Partnership is being damaged by the continued registration of Registration No. 3,389,431 and puts forth the following grounds for cancellation:

1. Whataburger Partnership is the owner of all right, title and interest in and to the trademarks and service marks pleaded in this Petition to Cancel and licenses said marks for use in connection with the WHATABURGER restaurant system (Whataburger Partnership and its licensees are collectively referred to as "Petitioner").

2. Petitioner operates over 700 restaurants under the WHATABURGER name.

3. Petitioner, through its predecessors in interest, adopted and commenced use of the WHATABURGER name as a service mark for restaurants services in 1950 and has used the name continuously and without interruption to the present day.

4. Petitioner uses the WHATABURGER name not only to identify its restaurant services, but also as a trademark to identify food products sold at its restaurants and elsewhere.

5. Petitioner has developed a family of WHATA marks to identify its food products, and collateral products and services, such as printed materials, clothing and stadium services.

6. Based on Petitioner's extensive, exclusive and continuous use of its WHATABURGER and WHATA marks in connection with restaurant services, food products and collateral goods, the name WHATABURGER and Petitioner's other WHATA marks have come to be recognized among the consuming public as designators of origin with respect to said services and products.

7. Petitioner is the owner of all right, title and interest in and to the following federal service mark and trademark registrations, which presently are valid and subsisting in law (photocopies are attached hereto as Exhibit A).

(a) Registration No. 652,137 – **WHATABURGER** for "hamburger sandwich," registered on the Principal Register September 24, 1957.

(b) Registration No. 891,082 – **WHATABURGER** for "restaurant services and drive in restaurant services," registered on the Principal Register May 12, 1970.

(c) Registration No. 1,011,927 – **WHATABURGER** for "hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches" and "restaurant and drive-in restaurant services," registered on the Principal Register on May 27, 1975.

(d) Registration No. 1,011,928 – **WHATABURGER & W Design** for "hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches" and "restaurant and drive-in restaurant services," registered on the Principal Register on May 27, 1975.

Trademark Trial and Appeal Board Electronic Filing System. http://estta.uspto.gov
ESTTA Tracking number: **ESTTA314934**
Filing date: **11/03/2009**

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

Proceeding	92050094
Party	Plaintiff Whataburger Partnership L.P.
Correspondence Address	Christopher Kelly WILEY REIN LLP 1776 K Street, N.W. Washington, DC 20006 UNITED STATES ckelly@wileyrein.com
Submission	Other Motions/Papers
Filer's Name	Christopher Kelly
Filer's e-mail	ckelly@wileyrein.com
Signature	/ck/
Date	11/03/2009
Attachments	DOC110.PDF (2 pages)(75383 bytes)

EXHIBIT B

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

WHATABURGER PARTNERSHIP	)	
	)	
Petitioner,	)	
	)	**Cancellation No. 92/050,094**
v.	)	**Reg. No.: 3,389,431**
	)	**Mark: WATTA**
AGROAMERICA CORPORATION	)	
	)	
Respondent.	)	

STIPULATED MOTION REQUESTING AMENDMENT WITH CONSENT AND CONTINGENT DISMISSAL OF CANCELLATION PROCEEDING

Comes now Respondent, Agroamerica Corporation ("Respondent"), pursuant to 37 C.F.R. § 2.133, with the consent of Petitioner, Whataburger Partnership ("Petitioner"), and hereby requests amendment of the identification of goods in Reg. No. 3,389,431 – WATTA such that the identification is narrowed to read "fresh fruits and vegetables and not sold through restaurants, including quick and full-service restaurants."

Contingent upon the Board's acceptance of Respondent's request for amendment set forth above, Petitioner requests that the Board dismiss Cancellation No. 92/050,094.

Respectfully submitted,

WHATABURGER PARTNERSHIP

By: _____
Christopher Kelly
Jennifer Elgin
WILEY REIN LLP
1776 K Street, N.W.
Washington, D.C. 20006
Attorneys for Petitioner

Dated: 11/3/09

AGROAMERICA CORPORATION

By: _____
Albert Bordas, Esq.
Albert Bordas, P.A.
Patent, Trademark, and Copyright Law
5975 Sunset Drive, Suite 607
Miami, Florida 33143
Attorneys for Respondent

Dated: Oct. 29, 2009

12983933.1

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of November 2009 I served the foregoing **STIPULATED MOTION REQUESTING AMENDMENT WITH CONSENT AND CONTINGENT DISMISSAL OF CANCELLATION PROCEEDING** by causing a copy thereof to be deposited in the United States mail, postage prepaid and addressed as follows:

Albert Bordas, Esq.
Albert Bordas, P.A.
Patent, Trademark and Copyright Law
5975 Sunset Drive, Suite 607
Miami, Florida 33143

Christopher Kelly

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

mc

Mailed: November 10, 2009

Cancellation No. 92050094

Whataburger Partnership L.P.

v.

Agroamerica Corporation

On November 3, 2009, the parties filed registrant's proposed amendment to its Registration No. 3389431, with petitioner's consent, and petitioner's withdrawal of the petition to cancel, contingent upon entry of the amendment.

By the proposed amendment registrant seeks to change the identification of goods from "Fresh fruits; Fresh vegetables" to "fresh fruits and vegetables not sold through restaurants, including quick and full-service restaurants."

Inasmuch as the amendment complies with all of the procedural requirements of Trademark Rule 2.173, it is clearly limiting in nature, and petitioner consents thereto, it is approved. See Trademark Rule 2.133(a).

The amendment will be forwarded to the Post Registration Branch of this Office for appropriate action in accordance with Section 7(e) of the Trademark Act.

The contingency in petitioner's withdrawal having now been met, the petition to cancel is dismissed in accordance with the agreement between the parties.

By the Trademark Trial and Appeal Board

Exhibit A11

Trademark Trial and Appeal Board Electronic Filing System. http://estta.uspto.gov
ESTTA Tracking number: **ESTTA244171**
Filing date: **10/22/2008**

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

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Whataburger Partnership LP		
Entity	Partnership	Citizenship	Texas
Composed Of:	Thomas E. Dobson Hugh Dobson Lynne Dobson		
Address	One Whataburger Way Corpus Christi, TX 78411 UNITED STATES		

Attorney information	Christopher Kelly WILEY REIN LLP 1776 K Street, N.W. Washington, DC 20006 UNITED STATES ckelly@wileyrein.com Phone:202-719-7000

Registration Subject to Cancellation

Registration No	3155106	Registration date	10/10/2006
Registrant	Gielow Pickles, Inc 5260 Main St Lexington, MI 48450 UNITED STATES		

Goods/Services Subject to Cancellation

Class 029. First Use: 2005/01/26 First Use In Commerce: 2006/02/01 All goods and services in the class are cancelled, namely: Pickles

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	652137	Application Date	06/07/1954
Registration Date	09/24/1957	Foreign Priority Date	NONE
Word Mark	WHATABURGER		

Design Mark	WHATABURGER
Description of Mark	NONE
Goods/Services	Class U046 (International Class 030). First use: First Use: 1950/01/01 First Use In Commerce: 1953/02/10 HAMBURGER SANDWICH

U.S. Registration No.	891082	Application Date	02/20/1968
Registration Date	05/12/1970	Foreign Priority Date	NONE
Word Mark	WHATABURGER		
Design Mark	WHATABURGER		
Description of Mark	NONE		
Goods/Services	Class U100 (International Class 042). First use: First Use: 1950/01/01 First Use In Commerce: 1953/02/10 RESTAURANT SERVICES AND DRIVE IN RESTAURANT SERVICES		

U.S. Registration No.	1011927	Application Date	11/29/1972
Registration Date	05/27/1975	Foreign Priority Date	NONE
Word Mark	WHATABURGER		
Design Mark	WHATABURGER		
Description of Mark	NONE		
Goods/Services	Class U045 (International Class 032). First use: First Use: 1972/07/18 First Use In Commerce: 1972/07/28 SOFT DRINKS Class U046 (International Class 029, 030). First use: First Use: 1972/07/18 First Use In Commerce: 1972/07/28		

	HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, [POTATO CHIPS, CORN CHIPS,] FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANKFURTER SANDWICHES Class U100 (International Class 042). First use: First Use: 1972/07/18 First Use In Commerce: 1972/07/28 RESTAURANT AND DRIVE-IN RESTAURANT SERVICES

U.S. Registration No.	1011928	Application Date	11/29/1972
Registration Date	05/27/1975	Foreign Priority Date	NONE
Word Mark	W WHATABURGER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U045 (International Class 032). First use: First Use: 1972/07/18 First Use In Commerce: 1972/07/28 SOFT DRINKS Class U046 (International Class 029, 030). First use: First Use: 1972/07/18 First Use In Commerce: 1972/07/28 HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, [POTATO CHIPS, CORN CHIPS,] FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANKFURTER SANDWICHES Class U100 (International Class 042). First use: First Use: 1972/07/28 First Use In Commerce: 1972/07/28 RESTAURANT AND DRIVE-IN RESTAURANT SERVICES		

U.S. Registration No.	1014196	Application Date	11/26/1973
Registration Date	06/24/1975	Foreign Priority Date	NONE
Word Mark	WHATABURGER JR.		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1973/04/01 First Use In Commerce: 1973/08/29 PREPARED HAMBURGER SANDWICH FOR CONSUMPTION ON OR OFF THE PREMISES		

U.S. Registration No.	1116918	Application Date	01/20/1978
Registration Date	04/24/1979	Foreign Priority	NONE

		Date	
Word Mark	WHATAMEAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1975/07/01 First Use In Commerce: 1975/07/01 PREPARED MEAL CONSISTING OF A HAMBURGER SANDWICH, FRENCH FRIES AND A BEVERAGE FOR CONSUMPTION ON OR OFF THE PREMISES		

U.S. Registration No.	1206344	Application Date	08/10/1979
Registration Date	08/24/1982	Foreign Priority Date	NONE
Word Mark	WHATACATCH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1978/10/14 First Use In Commerce: 1979/04/01 Breaded Fish Fillets Suitable for Fish Sandwiches Class 030. First use: First Use: 1978/10/14 First Use In Commerce: 1979/04/01 Prepared Fish Sandwich for Consumption On or Off the Premises		

U.S. Registration No.	2160285	Application Date	03/24/1997
Registration Date	05/26/1998	Foreign Priority Date	NONE
Word Mark	WHATACHICK'N		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1984/01/01 First Use In Commerce: 1984/01/01 chicken sandwich		

U.S. Registration No.	2335590	Application Date	04/05/1999
Registration Date	03/28/2000	Foreign Priority Date	NONE
Word Mark	WHATABURGER		
Design Mark	**WHATABURGER**		
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1950/01/01 First Use In Commerce: 1953/02/10 restaurant services		

U.S. Registration No.	2372372	Application Date	03/05/1999
Registration Date	08/01/2000	Foreign Priority Date	NONE
Word Mark	WHATAKIDS		
Design Mark	WHATAKIDS		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1998/11/00 First Use In Commerce: 1999/02/15 Clothing for children, namely, shirts, polo shirts, t-shirts, dresses, overalls, onesies, baseball caps and hats		

U.S. Registration No.	2418380	Application Date	05/06/1999
Registration Date	01/02/2001	Foreign Priority Date	NONE
Word Mark	WHATAGUY		
Design Mark	WHATAGUY		
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 2000/01/01 First Use In Commerce: 2000/01/01 restaurant services		

U.S. Registration No.	2432191	Application Date	02/22/1999
Registration Date	02/27/2001	Foreign Priority Date	NONE
Word Mark	WHATAKIDS		

Design Mark	WHATAKIDS
Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 1999/04/01 First Use In Commerce: 1999/04/01 restaurant services

U.S. Registration No.	2519854	Application Date	01/02/2001
Registration Date	12/18/2001	Foreign Priority Date	NONE
Word Mark	WHATACOMIX		
Design Mark	WHATACOMIX		
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2000/01/01 First Use In Commerce: 2000/01/01 comic books and children's activity books		

U.S. Registration No.	2534527	Application Date	03/10/1999
Registration Date	01/29/2002	Foreign Priority Date	NONE
Word Mark	WHATAPLACE! WHATATASTE!		
Design Mark	WHATAPLACE! WHATATASTE!		
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1998/10/11 First Use In Commerce: 1998/10/11 restaurant services		

U.S. Registration No.	2757109	Application Date	10/31/2001

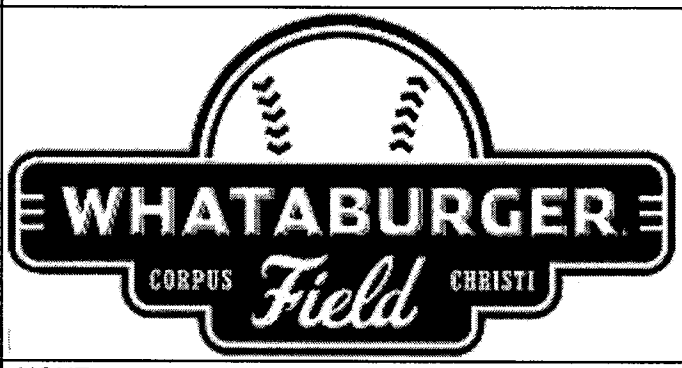
Registration Date	08/26/2003	Foreign Priority Date	NONE
Word Mark	WHATABURGER		
Design Mark	WHATABURGER		
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2001/10/05 First Use In Commerce: 2001/10/05 Charitable fundraising services		

U.S. Registration No.	2846139	Application Date	12/06/2002
Registration Date	05/25/2004	Foreign Priority Date	NONE
Word Mark	WHATABLENDERS		
Design Mark	WHATABLENDERS		
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 2002/09/04 First Use In Commerce: 2002/11/04 milk shake drinks, bases for milk shake drinks and candy flavored toppings therefor		

U.S. Registration No.	3185230	Application Date	01/07/2005
Registration Date	12/19/2006	Foreign Priority Date	NONE
Word Mark	WHATASIZE		
Design Mark	WHATASIZE		
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 1998/00/00 First Use In Commerce: 1998/00/00 Restaurant services featuring a prepared meal containing french fries and a soft drink for consumption on or off the premises		

U.S. Registration No.	3188132	Application Date	03/31/2005

Registration Date	12/19/2006	Foreign Priority Date	NONE
Word Mark	WHATABURGER FIELD		
Design Mark	WHATABURGER FIELD		
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2005/04/06 First Use In Commerce: 2005/04/06 providing stadium facilities for sporting events, exhibitions, conventions, community festival events and concerts		

U.S. Registration No.	3188136	Application Date	04/01/2005
Registration Date	12/19/2006	Foreign Priority Date	NONE
Word Mark	WHATABURGER FIELD CORPUS CHRISTI		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2005/04/06 First Use In Commerce: 2005/04/06 providing stadium facilities for sporting events, exhibitions, conventions, community festival events and concerts		

Attachments	71667794#TMSN.gif (1 page)(bytes) 72291496#TMSN.gif (1 page)(bytes) 72442464#TMSN.gif (1 page)(bytes) 72442465#TMSN.gif (1 page)(bytes) 75674147#TMSN.gif (1 page)(bytes) 75654525#TMSN.gif (1 page)(bytes) 75698642#TMSN.gif (1 page)(bytes) 75647561#TMSN.gif (1 page)(bytes) 76188399#TMSN.gif (1 page)(bytes) 75657290#TMSN.gif (1 page)(bytes)

	76332382#TMSN.gif (1 page)(bytes) 76473190#TMSN.gif (1 page)(bytes) 76627124#TMSN.gif (1 page)(bytes) 78598999#TMSN.jpeg (1 page)(bytes) 78599894#TMSN.jpeg (1 page)(bytes) WHATAPICKLE.PDF (6 pages)(300662 bytes)

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.

Signature	/Christopher Kelly/
Name	Christopher Kelly
Date	10/22/2008

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

WHATABURGER PARTNERSHIP L.P.	)	
	)	
Petitioner,	)	
	)	Cancellation No.: _____
v.	)	Mark: WHAT A PICKLE
	)	Reg. No.: 3,155,106
GIELOW PICKLES, INC.	)	
	)	
Respondent.	)	

PETITION TO CANCEL

Whataburger Partnership, a general partnership organized under the laws of Texas, with offices located at One Whataburger Way, Corpus Christi, Texas 78411, hereby petitions to cancel Registration No. 3,155,106 – WHAT A PICKLE for "pickles," in International Class 29, registered on the Principal Register October 10, 2006, by Gielow Pickles, Inc. ("Registrant"). Whataburger Partnership is being damaged by the continued registration of Registration No. 3,155,106 and puts forth the following grounds for cancellation:

1. Whataburger Partnership is the owner of all right, title and interest in the trademarks and service marks pleaded in this Petition to Cancel and licenses said marks for use in connection with the WHATABURGER restaurant system (Whataburger Partnership and its licensees are collectively referred to as "Petitioner").

2. Petitioner operates over 700 restaurants under the WHATABURGER name.

3. Petitioner, through its predecessors in interest, adopted and commenced use of the WHATABURGER name as a service mark for restaurants services in 1950 and has used the name continuously and without interruption to the present day.

4. Petitioner uses the WHATABURGER name not only to identify its restaurant services, but also as a trademark to identify food products sold at its restaurants and elsewhere.

5. Petitioner has developed a family of WHATA marks to identify its food products and collateral products and services, such as printed materials, clothing and stadium services.

6. Based on Petitioner's extensive, exclusive and continuous use of its WHATABURGER and WHATA marks in connection with restaurant services, food products and collateral goods, the name WHATABURGER and Petitioner's other WHATA marks have come to be recognized among the consuming public as designators of origin with respect to said services and products.

7. Petitioner is the owner of all right, title and interest in and to the following federal service mark and trademark registrations, which presently are valid and subsisting in law (photocopies are attached hereto as Exhibit A).

(a) Registration No. 652,137 – **WHATABURGER** for "hamburger sandwich," registered on the Principal Register September 24, 1957.

(b) Registration No. 891,082 – **WHATABURGER** for "restaurant services and drive in restaurant services," registered on the Principal Register May 12, 1970.

(c) Registration No. 1,011,927 – **WHATABURGER** for "hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches" and "restaurant and drive-in restaurant services," registered on the Principal Register on May 27, 1975.

(d) Registration No. 1,011,928 – **WHATABURGER & W Design** for "hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches" and "restaurant and drive-in restaurant services," registered on the Principal Register on May 27, 1975.

(e) Registration No. 1,014,196 – **WHATABURGER JR.** for "prepared hamburger sandwich for consumption on or off premises," registered on the Principal Register on June 24, 1975.

(f) Registration No. 1,116,918 – **WHATAMEAL** for "prepared meal consisting of a hamburger sandwich, french fries and a beverage for consumption on or off the premises," registered on the Principal Register April 24, 1979.

(g) Registration No. 1,206,344 – **WHATACATCH** for "breaded fish fillets suitable for fish sandwiches" and "prepared fish sandwich for consumption on or off the premises," registered on the Principal Register August 24, 1982.

(h) Registration No. 2,160,285 – **WHATACHICK'N** for "chicken sandwich," registered on the Principal Register May 26, 1998.

(i) Registration No. 2,335,590 – **WHATABURGER** for "restaurant services," registered on the Principal Register March 28, 2000.

(j) Registration No. 2,372,372 – **WHATAKIDS** for "clothing for children, namely, shirts, polo shirts, t-shirts, dresses, overalls, onesies, baseball caps and hats," registered on the Principal Register August 1, 2000.

(k) Registration No. 2,418,380 – **WHATAGUY** for "restaurant services," registered on the Principal Register January 2, 2000.

(l) Registration No. 2,432,191 – **WHATAKIDS** for "restaurant services," registered on the Principal Register February 27, 2001.

(m) Registration No. 2,519,854 – **WHATACOMIX** for "comic books and children's activity books," registered on the Principal Register December 18, 2001.

(n) Registration No. 2,534,527 – **WHATAPLACE! WHATATASTE!** for "restaurant services," registered on the Principal Register January 29, 2002.

(o) Registration No. 2,757,109 – **WHATABURGER** for "charitable fundraising services," registered on the Principal Register August 26, 2003.

(p) Registration No. 2,846,139 – **WHATABLENDERS** for "milk shake drinks, bases for milk shake drinks and candy flavored toppings," registered on the Principal Register May 25, 2004.

(q) Registration No. 3,185,230 – **WHATASIZE** for "restaurant services featuring a prepared meal containing french fries and a soft drink for consumption on or off the premises," registered on the Principal Register December 19, 2006.

(r) Registration No. 3,188,132 – **WHATABURGER FIELD** for "providing stadium facilities for sporting events, exhibitions, conventions, community festival events and concerts," registered on the Principal Register December 19, 2006.

(s) Registration No. 3,188,136 – **WHATABURGER FIELD & Design** for "providing stadium facilities for sporting events, exhibitions, conventions, community festival events and concerts," registered on the Principal Register December 19, 2006.

8. Many of Petitioner's pleaded registrations are incontestable as to the products and services listed therein and are conclusive evidence of the validity of the registered marks, Petitioner's ownership thereof, and of Petitioner's exclusive right to use the marks in commerce on or in connection with the products and services identified in the registrations.

9. Petitioner has invested substantial sums advertising and promoting the sale of its goods and services under its WHATABURGER and WHATA marks. By reason of Petitioner's extensive, exclusive and continuous use of its WHATABURGER and WHATA marks, the relevant consuming public has come to recognize the WHATABURGER and WHATA marks as being used by Petitioner to associate and identify the WHATABURGER and WHATA marks with Petitioner. Petitioner has obtained and enjoys an exceedingly valuable reputation and goodwill symbolized by the WHATABURGER and WHATA marks.

10. The constructive and actual dates of first use of many of Petitioner's WHATABURGER and WHATA marks precede the filing date of the underlying application to Registration No. 3,155,106; the issuance date of Registration No. 3,155,106; and the dates of first use identified in the challenged registration.

11. On information and belief, Respondent has adopted and uses the designation WHAT A PICKLE in connection with food products consisting of "pickles."

12. The food products identified in the challenged registration are closely related to the products and services offered by Petitioner under its WHATABURGER and WHATA marks;

the products in the challenged registration are not restricted as to types of customers and channels of trade; and the designation WHAT A PICKLE so resembles Petitioner's WHATABURGER and WHATA marks in terms of appearance, sound, connotation and commercial impression as to be likely, when applied to Respondent's food products, to cause confusion and mistake and to deceive.

13. The designation WHAT A PICKLE is confusingly similar to Petitioner's WHATABURGER and WHATA marks so that continued registration of the designation would be inconsistent with and damaging to Petitioner's exclusive and prior rights in its registered marks in connection with the products and services with which they are used.

14. Any defect, objection or fault found with any food product sold under the designation WHAT A PICKLE would injure the valuable reputation and goodwill Petitioner has established for its products and services sold under its WHATABURGER and WHATA marks.

15. Petitoner will continue to be damaged by registration of Respondent's designation.

WHEREFORE, Petitioner prays that its petition for cancellation be sustained and that the challenged registration be cancelled in its entirety.

Petitioner hereby authorizes the filing fee of THREE HUNDRED DOLLARS ($300.00) and any additional charges necessary to institute this proceeding to be debited from the deposit account of Wiley Rein, Account No. 501129.

This opposition is being filed by the undersigned attorneys at law, duly authorized to represent Petitioner in this proceeding, pursuant to Trademark Rule 2.111(b).

Respectfully submitted,

WHATABURGER PARTNERSHIP, L.P.

By: _____

J. Timothy Hobbs
Christopher Kelly
Jennifer Elgin
Wiley Rein LLP
1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000

Attorneys for Whataburger Partnership, L.P.

Dated: October 21, 2008

12916058.1

Cool Crisp by Gielow

Dec 1, 2008

Via EXPRESS MAIL Post Office to Addressee

BOX TTAB NO FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

78/554,040

Re: Cancellation No. 92050093

Dear Sir/Madam,

Transmitted herewith is Registrant's formal Answer in the above Cancellation

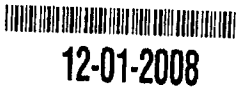
An identical copy of the above was sent via Express Mail and served on Petitioner.

Thank you for your assistance in this matter.

Sincerely,

/Douglas Gielow/
Douglas Gielow
Individual, Registrant, US Citizen, CEO
Gielow Pickles, Inc.
Email: doug@gielowpickles.com

Enclosures: Answer of Registrant to Petition to Cancel
cc: Christopher Kelly, Esq., Wiley Rein LLP, Attorneys for Opposer



U S Patent & TMOfc/TM Mail Rcpt Dt #30

5260 MAIN ST. LEXINGTON, MI 48450 (810) 359 7680 FAX (810) 359 2408

WE MAKE HAMBURGER SLICES BY THE MILLIONS. ONE AT A TIME

TTAB

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

In the Matter of Registration No. 3,155,106
For the Mark: WHAT A PICKLE!
Date Registered: October 10, 2006

WHATABURGER PARTNERSHIP L.P. Petitioner, v. GIELOW PICKLES, INC., Registrant.	Cancellation No. 92050093

Express Mail label number EH 254479483 US
I hereby certify that this correspondence is being deposited with the United States Postal Service 'Express Mail Post Office To Addressee' service in an envelope addressed to:

Attn: TTAB – NO FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Douglas Gielow 12/1/08
Douglas Gielow Date

Answer of Registrant to Petition to Cancel

Gielow Pickles, Inc., ("Registrant"), a US corporation in the State of Michigan, hereby answers each of the allegations of the Petition to Cancel filed by Whataburger Partnership L.P., a general partnership organized and existing under the laws of Texas ("Petitioner").

Registrant denies Petitioner has been damaged or will be damaged as alleged in the first unnumbered paragraph and therefore denies the allegations.

The numbered Answers herein correspond to the numbered paragraphs set forth in Petitioner's Petition to Cancel.

12-01-2008

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

1. Registrant is without knowledge and information to form a belief as to the truth of the allegations set forth in paragraph 1 and therefore denies the allegations.

2. Registrant is without knowledge and information to form a belief as to the truth of the allegations set forth in paragraph 2 and therefore denies the allegations. Registrant denies that Registrant's Mark could create or has created any likelihood of confusion with any of Petitioner's pleaded marks.

3. Registrant is without knowledge and information to form a belief as to the truth of the allegations set forth in paragraph 3 and therefore denies the allegations. Registrant's family used the mark WHAT A PICKLE in interstate commerce as early as January of 1949, a date prior to any date of first use or first use in commerce that Petitioner can claim, and the records of the USPTO reveal US Registration No. 0588866 evidencing same.

4. Registrant is without knowledge and information to form a belief as to the truth of the allegations set forth in paragraph 4 and therefore denies the allegations.

5. Registrant is without knowledge and information to form a belief as to the truth of the allegations set forth in paragraph 5 and therefore

denies the allegations. Registrant denies the allegation that Registrant's mark WHAT A PICKLE! could cause, or has caused, likelihood of confusion or actual confusion with Petitioner's marks, and therefore Registrant denies the allegations.

6. Registrant wholeheartedly and enthusiastically admits the allegation. All of Petitioner's pleaded marks are used in connection with Petitioner's 'prepared fast foods' eat in or take out restaurant services and related goods. As revealed in the registrations for Petitioner's pleaded Marks, Petitioner provides prepared fast foods in the nature of "restaurant and drive-in restaurant services". Petitioner's pleaded registrations consist only of: a hamburger sandwich, soft drinks, hamburgers, cheeseburgers, French fried potatoes, fried pies, onion rings, malt and shake beverages, frankfurter sandwiches; prepared hamburger sandwich for consumption on or off the premises; prepared meal consisting of a hamburger sandwich, French fries and a beverage for consumption on or off the premises; breaded fish filets suitable for fish sandwiches; prepared fish sandwich for consumption on or off the premises; chicken sandwich; Clothing for children, namely, shirts, polo shirts, t-shirts, dresses, overalls, onesies, baseball caps and hats; comic books and children's activity books; Charitable fundraising services; milk shake drinks, bases for milk shake drinks and candy flavored toppings therefor; Restaurant services featuring a prepared meal containing French fries and a soft drink for consumption on or off the premises; and providing stadium facilities for sporting events, exhibitions, conventions, community festival events and concerts in

connection with WHATABURGER FIELD located in Corpus Christi, Texas. As revealed in all of Petitioner's pleaded marks, **none** of Petitioner's goods or services are used in connection with pickles. J.J. Gielow & Sons was Registrant's family owned business started by Registrant's father, uncles, and grandfather who used the name WHAT A PICKLE as early as 1949 in retail and wholesale sales across the United States.

7. Registrant admits only that the records of the USPTO reveal the pleaded marks of Petitioner, and denies the allegation that any of Petitioner's Marks have caused or could be likely to cause confusion, to cause mistake, or to deceive consumers within the trade as to the affiliation, connection, or association of Registrant with Petitioner, or as to the origin, sponsorship, or approval of Registrant's goods or services by Petitioner.

8. Registrant is without knowledge and information to form a belief as to the truth of the allegations set forth in paragraph 8 and therefore denies the allegations. Registrant admits only that Petitioner 'may' have exclusive rights to use the marks of Petitioner only in connection with the products and services identified in Petitioner's pleaded registrations.

9. Registrant is without knowledge and information to form a belief as to the truth of the allegations set forth in paragraph 9 and therefore denies the allegations.

10. Deny. Registrant's family's use of Registrant's mark, first applied for in January of 1949, predates any date that Petitioner could claim.

11. Admit.

12. Deny.

13. Deny.

14. Deny.

15. Deny.

AFFIRMATIVE DEFENSES

16. Petitioner fails to state a claim upon which relief can be granted.

17. All of Petitioner's pleaded Marks are compound marks containing the conjoined words 'WHATA'. To the contrary, Registrant's registered mark consists of three common English words, making the mark of Registrant and the marks of Petitioner highly dissimilar in sound, spelling, pronunciation, connotation,

and commercial impression – while the mark of Registrant and the marks of Petitioner are unique and distinct.

18. An overwhelming preponderance of the DuPont Factors weigh heavily in favor of Registrant.

19. Registrant's goods are pickles, and Registrant's mark WHAT A PICKLE or WHAT A PICKLE! has appeared on the packaging of Registrant's goods since as early as 1949. To the contrary, Petitioner's goods and services are related to or in direct connection with restaurant services, and more specifically eat-in or take-out hamburgers. The nature of the goods of Registrant and the goods and services of Petitioner are highly dissimilar in the applications, and in actual use – and to claim a hamburger and a pickle are similar goods is a significant stretch and without basis or merit.

20. Registrant's customers are primarily institutional, across the U.S. and Canada, and are restaurants, delicatessens, schools, caterers, and other similar businesses. Registrant's mark WHAT A PICKLE! appears on individually wrapped pickles sold in restaurants and schools. To the contrary, Petitioner's goods and services are sold primarily or exclusively through fast food chain outlets bearing the brand name of Petitioner, namely 'WHATABURGER'. The established channels of trade and likely-to-continue channels of trade of Registrant are highly dissimilar to the channel of trade of Petitioner.

21. Registrant's goods are consumed as condiments while Petitioner's goods are consumed as prepared meals. The conditions under which sales of goods are made to consumers or the trade by Registrant or Petitioner are entirely dissimilar.

22. Registrant's Mark WHATA PICKLE or WHAT A PICKLE! has been in use since 1949, has been extensively advertised and promoted for nearly six decades, and while at least one of the Marks of Petitioner has been in use since 1950 according to the records of the USPTO, the length of use is about the same, while the Mark of Registrant may indeed be more famous than any of the marks of Petitioner.

23. Registrant uses its mark on goods related only to pickles. While Petitioner pleads 19 marks containing the conjoined term 'WHATA', not a single one of Petitioner's marks is in use on similar goods, namely pickles.

24. Since 1949, Registrant is unaware of any confusion whatsoever between the marks of Petitioner and the mark of Registrant.

25. Registrant's mark is a slogan, Petitioner's marks all relate to the name of Petitioner's fast food outlet franchises, or related derivatives thereof.

26. Petitioner does not have the right to preclude all others from the use of the common English term 'what a'.

27. IF the marks of Petitioner and the mark of Registrant could create likelihood of confusion as Petitioner alleges, Registrant, by virtue of Registrant's earlier use of Registrant's mark WHAT A PICKLE prior to any date Petitioner could claim, has senior rights and priority, and Registrant could claim, though does not claim herein, that all of the marks of Petitioner create and have created likelihood of confusion with the mark of Registrant.

28. Predecessors and family members, namely the grandfather, father and uncle of Registrant, owned J.J. Gielow & Sons of Detroit, Michigan. Founded in 1949, and owner of the Mark WHAT A PICKLE with dates of first use of January 1949, prior to any date Petitioner has claimed or could claim, J.J. Geilow & Sons was the parent company of Aunt Jane's Foods, with Aunt Jane's Foods a subsidiary of J.J. Gielow & Sons. J.J. Gielow & Sons assigned the registration of the mark WHAT A PICKLE, U.S. Registration No. 588866, to Aunt Jane's Foods, Incorporated on 05/03/1960 and Aunt Jane's continued extensive nationwide use of the mark WHAT A PICKLE on its pickle labels and packaging, in nationwide advertising, promotion, a green pickle-shaped full-sized truck, and *inter alia*, Marv Gielow, the uncle of Registrant Douglas Gielow, sponsored Gordon Deneau's "What A Pickle" race boats in the 1950's. Registrant's father retired as VP Manufacturing for Aunt Jane's Foods in 1966, and Registrant became Director of Manufacturing for Aunt Jane's Foods until Registrant resigned from Aunt Jane's Foods in 1970 to 're-start' Registrant's family business under the name Gielow Pickles, Inc. in 1970. Registrant

was in charge of all pickle manufacturing for both pickle manufacturing plants, namely J.J. Geilow & Sons and Aunt Jane's Foods, from 1966 to 1970. Aunt Jane's Foods, Incorporated assigned the registration of the mark WHAT A PICKLE, U.S. Registration No. 588866, to The Borden Company on 03/28/1963. Borden distributed pickles under the Aunt Jane's label, continuously used the mark WHAT A PICKLE!, and Registrant personally ran the Borden Aunt Jane's division for Borden, unchanged in organization, for 6 years after Borden's bought Aunt Jane's. Aunt Jane's was the only pickle division of Borden. An employee working under Registrant at the Aunt Jane's plant confirmed that Borden was still using the mark WHAT A PICKLE! on the side of their trucks in 1993 even though Borden did not officially renew the WHAT A PICKLE! trademark. The Borden Company assigned the mark WHAT A PICKLE, U.S. Registration No. 588866, to Borden, Inc. on 04/25/1968. As evidenced by the records of the USPTO, The Borden Company or Borden, Inc. maintained the mark WHAT A PICKLE, U.S. Registration No. 588866 that became U.S. Registration No. 783746, US Serial No 72/120,686, until 04/19/1985 at which time the records reveal the mark Expired Section 9. Seeing the mark WHAT A PICKLE! had been abandoned for some time, on January, 26, 2005, Registrant filed its application for the mark WHAT A PICKLE!, and on October 25, 2006 Registrant's mark, and the mark of Registrant's family, pre-dating any date of first use Petitioner could claim, was granted US Patent and Trademark Office Registration No 3155106. Registrant made a scrivener's error in Registrant's application that became

Registration No 3155106 regarding the actual date of first use, which should have been January of 1949. See Exhibit A.

29. The existence of as many as 426 'live' pending and registered marks for diverse goods and services containing the term 'what a' or the Spanish 'Que', as revealed in the records of the USPTO indicate that Petitioner does not have the rights or grounds to preclude all others from the use of all applied for and registered marks containing the term 'what a', and more specifically, Petitioner does not have the right, grounds or basis to preclude Registrant from use of the common English term 'what a'; nor does Petitioner have any basis to oppose the coined and fanciful and distinctive mark of Registrant WHAT A PICKLE!, where the goods of Registrant sold in connection with its Mark are sold to dissimilar types of buyers, in dissimilar channels of trade, and to informed, sophisticated buyers that could not be confused with the goods and services of Petitioner.

30. As Petitioner states on its own web Site, Petitioner's business under Petitioner's pleaded marks is overwhelmingly in connection with fast food hamburgers. To the contrary, Registrant's Mark and business is in connection with pickles directed to and sold to restaurants, delicatessens, schools, caterers, and other similar businesses. The channels of trade are dissimilar, the specific types of consumer are dissimilar, the purchasing decision is sophisticated, not casual, and therefore likelihood of confusion is de minimus while actual confusion is impossible.

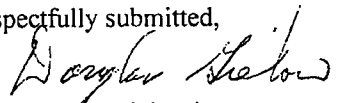
31. Petitioner is barred by the doctrine of acquiescence and has acquiesced for more than five decades or nearly 60 years.

32. Applicant reserves the right to develop further defenses during the Discovery Phase of the Opposition.

WHEREFORE, Applicant prays the Petition to Cancel be dismissed in its entirety with prejudice, that the Board agrees a registration should be maintained by Registrant for its trademark WHAT A PICKLE! in IC 029, and that the Trademark Trial and Appeal Board grant such other relief as it deems just and proper.

Dated: December 1, 2008

Respectfully submitted,



By: /Douglas Gielow/

Douglas Gielow
Individual, Registrant, US Citizen, CEO
Gielow Pickles, Inc
5260 Main St
Lexington, Michigan 48450
United States
Tel: 810 359 7680
Fax: 810 359 2408
Email: doug@gielowpickles.com

Certificate of Service

This is to certify that I, Douglas Gielow, individual, Registrant, US citizen, today served the above ANSWER on Opposer by EXPRESS MAIL, addressed to Christopher Kelly, Esq., Wiley Rein LLP, 1776 K Street, N.W., Washington, DC 20006, Tel: 212.859.8383, email: ckelly@wileyrein.com

Dated: December 1, 2008 By: /Douglas Gielow/
Douglas Gielow
Registrant

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 3,155,106

Registered Oct. 10, 2006

TRADEMARK
PRINCIPAL REGISTER

WHAT A PICKLE!

GIELOW PICKLES, INC (MICHIGAN CORPORATION)
5260 MAIN ST
LEXINGTON, MI 48450

FOR: PICKLES, IN CLASS 29 (U.S. CL. 46).

FIRST USE 1-26-2005; IN COMMERCE 2-1-2006.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 78-554,040, FILED 1-26-2005.

CHARISMA HAMPTON, EXAMINING ATTORNEY

Registered Apr. 20, 1954 **Registration No. 588,866**

SUPPLEMENTAL REGISTER
Trade-Mark

UNITED STATES PATENT OFFICE

J. J. Gielow & Sons, Inc., Detroit, Mich.

Act of 1946

Application April 20, 1950, Serial No. 596,022

STATEMENT

J. J. Gielow & Sons, Inc., a corporation duly organized under the laws of the State of Michigan, located at Detroit, Michigan, and doing business at 4189 Cabot Street, Detroit 10, Michigan, has adopted and is using the mark (slogan) shown in the accompanying drawing, for PICKLES, in Class 46, Foods and ingredients of foods, and presents herewith five specimens showing the mark as actually used in connection with such goods, the mark being applied to the jars, containers and shipping cartons within which the goods are sold and merchandised and to advertising associated with the goods such as billboards, display stands, stickers, showcase advertising, newspaper, handbill and postcard advertising, and requests that the same be registered in the United States Patent Office on the Supplemental Register in accordance with the act of July 5, 1946.

The mark was first used during January 1949 and first used in commerce among the several States which may lawfully be regulated by Congress during January 1949, and has been in lawful use in such commerce upon or in connection with the goods for the year preceding the filing of this application.

J. J. GIELOW & SONS, INC.,
By LESLIE J. GIELOW,
Vice-President.

United States Patent and Trademark Office

Home Site Index Search FAQ Glossary Guides Contacts eBusiness eBiz alerts News Help

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Thu Nov 27 04:07:42 EST 2008

TESS Home | New User | Structured | Free Form | Browse Dict | Search OG | Bottom | Help | Curr List | Next Doc | Last Doc

Logout Please logout when you are done to release system resources allocated for you.

Start List At: OR Jump to record: **Record 1 out of 3**

TARR Status | ASSIGN Status | TDR | TTAB Status *(Use the "Back" button of the Internet Browser to return to TESS)*

WHAT A PICKLE!

Word Mark	**WHAT A** PICKLE!
Goods and Services	IC 029. US 046. G & S: Pickles. FIRST USE: 20050126. FIRST USE IN COMMERCE: 20060201
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	78554040
Filing Date	January 26, 2005
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	October 25, 2005
Registration Number	3155106
Registration Date	October 10, 2006
Owner	(REGISTRANT) Gielow Pickles, Inc CORPORATION MICHIGAN 5260 Main St Lexington MICHIGAN 48450
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

TESS Home | New User | Structured | Free Form | Browse Dict | Search OG | Top | Help | Curr List | Next Doc | Last Doc

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-11-27 20:07:23 ET

Serial Number: 78554040 Assignment Information Trademark Document Retrieval

Registration Number: 3155106

Mark

WHAT A PICKLE!

(words only): WHAT A PICKLE!

Standard Character claim: Yes

Current Status: A cancellation proceeding has been filed at the Trademark Trial and Appeal Board and is now pending.

Date of Status: 2008-10-22

Filing Date: 2005-01-26

Transformed into a National Application: No

Registration Date: 2006-10-10

Register: Principal

Law Office Assigned: LAW OFFICE 112

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2006-08-30

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Gielow Pickles, Inc

Address:
Gielow Pickles, Inc

5260 Main St
Lexington, MI 48450
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Michigan
Phone Number: 810 359 7680
Fax Number: 810 359 2408

GOODS AND/OR SERVICES

International Class: 029
Class Status: Active
Pickles
Basis: 1(a)
First Use Date: 2005-01-26
First Use in Commerce Date: 2006-02-01

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-10-22 - Cancellation Instituted No. 999999

2006-10-10 - Registered - Principal Register

2006-08-28 - Law Office Registration Review Completed

2006-08-24 - Assigned To LIE

2006-08-11 - Allowed for Registration - Principal Register (SOU accepted)

2006-08-07 - Assigned To Examiner

2006-08-04 - Statement of use processing complete

2006-07-10 - Amendment to Use filed

2006-07-10 - TEAS Statement of Use Received

2006-01-17 - Notice of allowance - mailed

2005-10-25 - Published for opposition

2005-10-05 - Notice of publication

2005-09-07 - Law Office Publication Review Completed

2005-09-07 - Assigned To LIE

2005-08-25 - Approved for Pub - Principal Register (Initial exam)

2005-08-24 - Assigned To Examiner

2005-02-03 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent
Douglas Gielow
Gielow Pickles, Inc.
5260 Main Street
Lexington, MI 48450
Phone Number: 810 359 7680
Fax Number: 810 359 2408

EXHIBIT "A"

United States Patent and Trademark Office

Home Site Index Search FAQ Glossary Guides Contacts eBusiness eBiz alerts News Help

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Thu Nov 27 04:07:42 EST 2008

TESS Home | New User | Structured | Free Form | Browse Dict | Search OG | Bottom | Help | Curr List | First Doc | Prev Doc | Next Doc | Last Doc

Logout Please logout when you are done to release system resources allocated for you.

Start List At: OR Jump to record: **Record 3 out of 3**

TARR Status | ASSIGN Status | TDR | TTAB Status *(Use the "Back" button of the Internet Browser to return to TESS)*

Word Mark	**WHAT A PICKLE**
Goods and Services	(EXPIRED) IC 029. US 046. G & S: PICKLES. FIRST USE: 19490100. FIRST USE IN COMMERCE: 19490100
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	71596022
Filing Date	April 20, 1950
Current Filing Basis	1A
Original Filing Basis	1A
Registration Number	0588866
Registration Date	April 20, 1954
Owner	(REGISTRANT) J. J. GIELOW & SONS, INC. CORPORATION MICHIGAN 4189 CABOT STREET DETROIT MICHIGAN
Assignment Recorded	ASSIGNMENT RECORDED
Type of Mark	TRADEMARK
Register	SUPPLEMENTAL
Renewal	1ST RENEWAL 19740420
Live/Dead Indicator	DEAD

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-11-27 20:00:17 ET

Serial Number: 71596022 Assignment Information Trademark Document Retrieval

Registration Number: 588866

Mark

(words only): WHAT A PICKLE

Standard Character claim: No

Current Status: This registration was not renewed and is considered to be expired.

Date of Status: 1995-01-23

Filing Date: 1950-04-20

Transformed into a National Application: No

Registration Date: 1954-04-20

Register: Supplemental

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: (NOT AVAILABLE)

Date In Location: (DATE NOT AVAILABLE)

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. J. J. GIELOW & SONS, INC.

Address:
J. J. GIELOW & SONS, INC.
4189 CABOT STREET

DETROIT, MI
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Michigan

GOODS AND/OR SERVICES

U.S. Class: 046 (International Class 029)
Class Status: Expired
PICKLES
Basis: 1(a)
First Use Date: 1949-01-00
First Use in Commerce Date: 1949-01-00

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

1995-01-23 - Expired Section 9

1974-04-20 - First renewal

ATTORNEY/CORRESPONDENT INFORMATION

(NOT AVAILABLE)

Aunt Jane's

What a Pickle!

Registered Apr. 20, 1954

Registration No. 588,866

SUPPLEMENTAL REGISTER
Trade-Mark

UNITED STATES PATENT OFFICE

J. J. Gielow & Sons, Inc., Detroit, Mich.

Act of 1946

Application April 20, 1950, Serial No. 596,022

STATEMENT

J. J. Gielow & Sons, Inc., a corporation duly organized under the laws of the State of Michigan, located at Detroit, Michigan, and doing business at 4189 Cabot Street, Detroit 10, Michigan, has adopted and is using the mark (slogan) shown in the accompanying drawing, for PICKLES, in Class 46, Foods and ingredients of foods, and presents herewith five specimens showing the mark as actually used in connection with such goods, the mark being applied to the jars, containers and shipping cartons within which the goods are sold and merchandised and to advertising associated with the goods such as billboards, display stands, stickers, showcase advertising, newspaper, handbill and postcard advertising, and requests that the same be registered in the United States Patent Office on the Supplemental Register in accordance with the act of July 5, 1946.

The mark was first used during January 1949 and first used in commerce among the several States which may lawfully be regulated by Congress during January 1949, and has been in lawful use in such commerce upon or in connection with the goods for the year preceding the filing of this application.

J. J. GIELOW & SONS, INC.,
By LESLIE J. GIELOW,
Vice-President.

United States Patent and Trademark Office

Home Site Index Search Guides Contacts eBusiness eBiz alerts News Help

Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title

Total Assignments: 3

Serial #: 71596022 **Filing Dt:** 04/20/1950 **Reg #:** 588866 **Reg. Dt:** 04/20/1954

Registrant: J. J. GIELOW & SONS, INC.

Mark: WHAT A PICKLE

Assignment: 1

Reel/Frame: 0065/0265 **Received:** **Recorded:** 05/11/1960 **Pages:** 3

Conveyance: CHANGE OF NAME

Assignor: GIELOW, J. J. AND SONS, INCORPORATED **Exec Dt:** 05/03/1960
Entity Type: UNKNOWN
Citizenship: NONE

Assignee: AUNT JANE'S FOODS, INCORPORATED **Entity Type:** UNKNOWN
Citizenship: NONE

Correspondent: BURTON & PARKER
2020 DIME BLDG.
DETROIT 26, MI

Assignment: 2

Reel/Frame: 0103/0507 **Received:** **Recorded:** 07/30/1963 **Pages:** 3

Conveyance: ASSIGNS THE ENTIRE INTEREST, TOGETHER WITH THE GOOD WILL OF THE BUSINESS IN CONNECTION WITH WHICH SAID MARK IS USED.

Assignor: AUNT JANE'S FOODS, INCORPORATED **Exec Dt:** 03/28/1963
Entity Type: CORPORATION
Citizenship: MICHIGAN

Assignee: BORDEN COMPANY, THE **Entity Type:** CORPORATION
Citizenship: NEW JERSEY

Correspondent: THE BORDEN CO.
350 MADISON AVE.
NEW YORK 17, NY

Assignment: 3

Reel/Frame: 0173/0069 **Received:** **Recorded:** 10/09/1968 **Pages:** 1

Conveyance: CHANGE OF NAME

Assignor: BORDEN COMPANY, THE **Exec Dt:** 04/25/1968
Entity Type: UNKNOWN
Citizenship: NONE

Assignee: BORDEN, INC. **Entity Type:** UNKNOWN
Citizenship: NONE

Correspondent: BORDEN, INC.
350 MADISON AVE.
NEW YORK, NY 10017

Search Results as of: 11/27/2008 08:47 PM
If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350.
Web interface last modified: October 18, 2008 v.2.0.2

United States Patent and Trademark Office

Home Site Index Search FAQ Glossary Guides Contacts eBusiness eBiz alerts News Help

Trademarks > Trademark Electronic Search System (TESS)

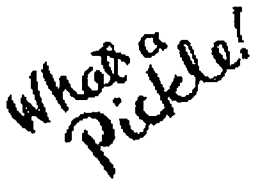
TESS was last updated on Thu Nov 27 04:07:42 EST 2008

TESS Home | New User | Structured | Free Form | Browse Dict | Search OG | Bottom | Help | Prev List | Curr List | Next List | First Doc | Prev Doc | Next Doc | Last Doc

Logout Please logout when you are done to release system resources allocated for you.

Start List At: OR Jump to record: **Record 2 out of 3**

TARR Status | ASSIGN Status | TDR | TTAB Status *(Use the "Back" button of the Internet Browser to return to TESS)*



Word Mark	**WHAT A** PICKLE!
Goods and Services	(EXPIRED) IC 029. US 046. G & S: PICKLES. FIRST USE: 19490100. FIRST USE IN COMMERCE: 19490100
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	72120686
Filing Date	May 24, 1961
Current Filing Basis	1A
Original Filing Basis	1A
Registration Number	0783746
Registration Date	January 19, 1965
Owner	(REGISTRANT) BORDEN COMPANY, THE CORPORATION NEW JERSEY 350 MADISON AVE. NEW YORK 17, N.Y., ASSIGNEE OF AUNT JANE'S FOODS, INCORPORATED (MICHIGAN CORPORATION) DEARBORN 1, MICH.
Assignment Recorded	ASSIGNMENT RECORDED
Prior Registrations	0588866
Disclaimer	APPLICANT MAKES NO CLAIM IN OR TO THE WORD "PICKLE" WHICH IS THE NAME OF THE

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-11-27 20:03:58 ET

Serial Number: 72120686 Assignment Information Trademark Document Retrieval

Registration Number: 783746

Mark

(words only): WHAT A PICKLE!

Standard Character claim: No

Current Status: This registration was not renewed and is considered to be expired.

Date of Status: 1985-04-19

Filing Date: 1961-05-24

Transformed into a National Application: No

Registration Date: 1965-01-19

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 001 -File Destroyed

Date In Location: 1989-06-01

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. BORDEN COMPANY, THE

Address:
BORDEN COMPANY, THE
350 MADISON AVE. NEW YORK 17, N.Y., ASSIGNEE OF AUNT JANE'S FOODS,

INCORPORATED (MICHIGAN CORPORATION) DEARBORN 1, MICH.
Legal Entity Type: Corporation
State or Country of Incorporation: New Jersey

GOODS AND/OR SERVICES

U.S. Class: 046 (International Class 029)
Class Status: Expired
PICKLES
Basis: 1(a)
First Use Date: 1949-01-00
First Use in Commerce Date: 1949-01-00

ADDITIONAL INFORMATION

Disclaimer: APPLICANT MAKES NO CLAIM IN OR TO THE WORD "PICKLE" WHICH IS THE NAME OF THE GOODS.

Prior Registration Number(s):
588866

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

1985-04-19 - Expired Section 9

ATTORNEY/CORRESPONDENT INFORMATION

(NOT AVAILABLE)

United States Patent Office

783,746
Registered Jan. 19, 1965

PRINCIPAL REGISTER
Trademark

Ser. No. 120,686, filed May 24, 1961

The Borden Company (New Jersey corporation)
350 Madison Ave.
New York 17, N.Y., assignee of
Aunt Jane's Foods, Incorporated (Michigan corporation)
Dearborn 1, Mich.

For: PICKLES, in CLASS 46.
First use January 1949; in commerce January 1949.
Applicant makes no claim in or to the word "Pickle" which is the name of the goods.
Owner of Reg. No. 588,866.

FORM 1
REV. 61

STATE OF MICHIGAN
~~CORPORATION AND SECURITIES COMMISSION~~
LANSING, MICHIGAN

DO NOT WRITE IN SPACE BELOW— FOR COMMISSION USE

Date Received:

APR 29 1970

(Compared By)

(Date)

FILED
Michigan Department of Treasury
MAY 1 1970
STATE TREASURER

ARTICLES OF INCORPORATION

These Articles of Incorporation are signed and acknowledged by the incorporators for the purpose of forming a corporation for profit under the provisions of Act No. 327 of the Public Acts of 1931, as amended, as follows:

ARTICLE I.

The name of the corporation is GIELOW PICKLES, INC.

ARTICLE II.

The purpose or purposes for which the corporation is formed are as follows:

To manufacture, produce, process, can, bottle, and otherwise prepare pickle and pickle products from cucumbers and other vegetables; to sell said products in wholesale transactions; to buy, rent, sell, or mortgage property for the interest of the corporation; to manufacture produce; process, bottle, package, and otherwise prepare fruit and vegetables; to sell said products in wholesale transactions;

To do any of the necessary acts in carrying out the above stated purposes.

In general to carry on any business in connection therewith and incident thereto not forbidden by the laws of the State of Michigan and with all the powers conferred upon corporations by the laws of the State of Michigan.

ARTICLE III.

Location of the first registered office is:
5601 (No.) Babcock Road (Street) Lexington (City) (Zone) Sanilac (County), Michigan.

Postoffice address of the first registered office is:
5601 Babcock Road (No. and Street or P. O. Box) Lexington (City) (Zone), Michigan.

ARTICLE IV.

The name of the first resident agent is R. Douglas Gielow

United States Patent and Trademark Office

Home Site Index Search FAQ Glossary Guides Contacts eBusiness eBiz alerts News Help

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Thu Nov 27 04:07:42 EST 2008

TESS Home | New User | Structured | Free Form | Browse Dict | Search OG | Bottom | Help | Prev List | Curr List | Next List | First Doc | Prev Doc | Next Doc | Last Doc

Logout Please logout when you are done to release system resources allocated for you.

Start List At: OR Jump to record: **Record 1 out of 3**

TARR Status | ASSIGN Status | TDR | TTAB Status *(Use the "Back" button of the Internet Browser to return to TESS)*

WHAT A PICKLE!

Word Mark	**WHAT A** PICKLE!
Goods and Services	IC 029. US 046. G & S: Pickles. FIRST USE: 20050126. FIRST USE IN COMMERCE: 20060201
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	78554040
Filing Date	January 26, 2005
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	October 25, 2005
Registration Number	3155106
Registration Date	October 10, 2006
Owner	(REGISTRANT) Gielow Pickles, Inc CORPORATION MICHIGAN 5260 Main St Lexington MICHIGAN 48450
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

TESS Home | New User | Structured | Free Form | Browse Dict | Search OG | Top | Help | Prev List | Curr List | Next List | First Doc | Prev Doc | Next Doc | Last Doc

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-11-27 20:07:23 ET

Serial Number: 78554040 Assignment Information Trademark Document Retrieval

Registration Number: 3155106

Mark

WHAT A PICKLE!

(words only): WHAT A PICKLE!

Standard Character claim: Yes

Current Status: A cancellation proceeding has been filed at the Trademark Trial and Appeal Board and is now pending.

Date of Status: 2008-10-22

Filing Date: 2005-01-26

Transformed into a National Application: No

Registration Date: 2006-10-10

Register: Principal

Law Office Assigned: LAW OFFICE 112

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2006-08-30

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Gielow Pickles, Inc

Address:
Gielow Pickles, Inc

5260 Main St
Lexington, MI 48450
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Michigan
Phone Number: 810 359 7680
Fax Number: 810 359 2408

GOODS AND/OR SERVICES

International Class: 029
Class Status: Active
Pickles
Basis: 1(a)
First Use Date: 2005-01-26
First Use in Commerce Date: 2006-02-01

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-10-22 - Cancellation Instituted No. 999999

2006-10-10 - Registered - Principal Register

2006-08-28 - Law Office Registration Review Completed

2006-08-24 - Assigned To LIE

2006-08-11 - Allowed for Registration - Principal Register (SOU accepted)

2006-08-07 - Assigned To Examiner

2006-08-04 - Statement of use processing complete

2006-07-10 - Amendment to Use filed

2006-07-10 - TEAS Statement of Use Received

2006-01-17 - Notice of allowance - mailed

2005-10-25 - Published for opposition

2005-10-05 - Notice of publication

2005-09-07 - Law Office Publication Review Completed

2005-09-07 - Assigned To LIE

2005-08-25 - Approved for Pub - Principal Register (Initial exam)

2005-08-24 - Assigned To Examiner

2005-02-03 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent
Douglas Gielow
Gielow Pickles, Inc.
5260 Main Street
Lexington, MI 48450
Phone Number: 810 359 7680
Fax Number: 810 359 2408

Int. Cl.: 29

Prior U.S. Cl.: 46

Reg. No. 3,155,106

United States Patent and Trademark Office Registered Oct. 10, 2006

TRADEMARK
PRINCIPAL REGISTER

WHAT A PICKLE!

GIELOW PICKLES, INC (MICHIGAN CORPORATION)
5260 MAIN ST
LEXINGTON, MI 48450

FOR: PICKLES, IN CLASS 29 (U.S. CL. 46).

FIRST USE 1-26-2005; IN COMMERCE 2-1-2006.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 78-554,040, FILED 1-26-2005.

CHARISMA HAMPTON, EXAMINING ATTORNEY

Cool Crisp

by Gielow Pickles, Inc.

Fourth Generation Pickle People
Lexington, MN 48450
888-619-5880

REFRIGERATED DELI PICKLE®

KEEP REFRIGERATED
CONTENTS: 1 SPEAR

Nutrition Facts	
Serving Size: 1 Pickle (Cool Crisp)	
Serving Size (Grams)	
Calorie Per Serving	
Calorie Per Serving	
Total Fat Cg	0%
Total Fat Cg	
Cholesterol Cmg	0%
Sodium Cmg	11%
Total Carbohydrate Cg	0%
Protein Cg	
Percent Per Serving Calorie Per Serving	

INGREDIENTS:
CUCUMBERS, WATER, SALT, SPICES, CALCIUM CHLORIDE, SODIUM BENZOATE, YELLOW 5, POLYSORBATE 80

7 93569 00680 3

Search:

Cancellation

Number: 92050093 **Filing Date:** 10/22/2008
Status: Pending **Status Date:** 10/22/2008
Interlocutory Attorney: MARY CATHERINE FAINT

Defendant

Name: Gielow Pickles, Inc.
Correspondence: TIMOTHY C KINGSTON
LAW OFFICE OF TIM KINGSTON LLC
408 WEST 23RD STREET, SUITE ONE
CHEYENNE, WY 48450
UNITED STATES
kingston@rockymtnlaw.com
Serial #: 78554040 Application File **Registration #:** 3155106
Application Status: Cancellation Pending
Mark: WHAT A PICKLE!

Plaintiff

Name: Whataburger Partnership LP
Correspondence: CHRISTOPHER KELLY
WILEY REIN LLP
1776 K STREET NW
WASHINGTON, DC 20006
UNITED STATES
CKelly@wileyrein.com
Serial #: 71667794 Application File **Registration #:** 652137
Application Status: Renewed
Mark: WHATABURGER
Serial #: 72291496 Application File **Registration #:** 891082
Application Status: Renewed
Mark: WHATABURGER
Serial #: 72442464 Application File **Registration #:** 1011927
Application Status: Renewed
Mark: WHATABURGER
Serial #: 72442465 Application File **Registration #:** 1011928
Application Status: Renewed
Mark: W WHATABURGER
Serial #: 73007283 Application File **Registration #:** 1014196
Application Status: Renewed
Mark: WHATABURGER JR.
Serial #: 73155977 Application File **Registration #:** 1116918
Application Status: Renewed
Mark: WHATAMEAL
Serial #: 73226971 Application File **Registration #:** 1206344
Application Status: Renewed

Mark: WHATACATCH
Serial #: 75261844 Application File **Registration #:** 2160285
Application Status: Renewed

Mark: WHATACHICK'N
Serial #: 75674147 Application File **Registration #:** 2335590
Application Status: Renewed

Mark: WHATABURGER
Serial #: 75654525 Application File **Registration #:** 2372372
Application Status: Renewed

Mark: WHATAKIDS
Serial #: 75698642 Application File **Registration #:** 2418380
Application Status: Renewed

Mark: WHATAGUY
Serial #: 75647561 Application File **Registration #:** 2432191
Application Status: Renewed

Mark: WHATAKIDS
Serial #: 76188399 Application File **Registration #:** 2519854
Application Status: Renewed

Mark: WHATACOMIX
Serial #: 75657290 Application File **Registration #:** 2534527
Application Status: Section 8 - Accepted

Mark: WHATAPLACE! WHATATASTE!
Serial #: 76332382 Application File **Registration #:** 2757109
Application Status: Section 8 and 15 - Accepted and Acknowledged

Mark: WHATABURGER
Serial #: 76473190 Application File **Registration #:** 2846139
Application Status: Section 8 and 15 - Accepted and Acknowledged

Mark: WHATABLENDERS
Serial #: 76627124 Application File **Registration #:** 3185230
Application Status: Registered

Mark: WHATASIZE
Serial #: 78598999 Application File **Registration #:** 3188132
Application Status: Registered

Mark: WHATABURGER FIELD
Serial #: 78599894 Application File **Registration #:** 3188136
Application Status: Registered

Mark: WHATABURGER FIELD CORPUS CHRISTI

Prosecution History

#	Date	History Text	Due Date
29	03/21/2011	PLAINTIFF'S NOTICE OF RELIANCE	
28	03/18/2011	PLAINTIFF'S NOTICE OF RELIANCE	
27	03/18/2011	PLAINTIFF'S NOTICE OF RELIANCE	
26	03/18/2011	PLAINTIFF'S NOTICE OF RELIANCE	
25	03/18/2011	PLAINTIFF'S NOTICE OF RELIANCE	

Prosecution History

#	Date	History Text	Due Date
24	03/18/2011	PLAINTIFF'S NOTICE OF RELIANCE	
23	01/12/2011	EXTENSION OF TIME GRANTED	
22	01/12/2011	STIPULATION FOR AN EXTENSION OF TIME	
21	12/30/2010	D'S APPEARANCE OF COUNSEL/POWER OF ATTORNEY	
20	11/19/2010	EXTENSION OF TIME GRANTED	
19	11/19/2010	STIPULATION FOR AN EXTENSION OF TIME	
18	09/03/2010	EXTENSION OF TIME GRANTED	
17	09/03/2010	STIPULATION FOR AN EXTENSION OF TIME	
16	04/25/2010	EXTENSION OF TIME GRANTED	
15	04/25/2010	STIPULATION FOR AN EXTENSION OF TIME	
14	02/17/2010	EXTENSION OF TIME GRANTED	
13	02/17/2010	STIPULATION FOR AN EXTENSION OF TIME	
12	11/25/2009	EXTENSION OF TIME GRANTED	
11	11/25/2009	STIPULATION FOR AN EXTENSION OF TIME	
10	10/27/2009	EXTENSION OF TIME GRANTED	
9	10/27/2009	STIPULATION FOR AN EXTENSION OF TIME	
8	08/28/2009	EXTENSION OF TIME GRANTED	
7	08/28/2009	STIPULATION FOR AN EXTENSION OF TIME	
6	08/12/2009	EXTENSION OF TIME GRANTED	
5	06/29/2009	P'S MOTION FOR AN EXTENSION OF TIME	
4	12/01/2008	ANSWER	
3	10/22/2008	PENDING, INSTITUTED	
2	10/22/2008	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	12/01/2008
1	10/22/2008	FILED AND FEE	

Search:

Exhibit A12

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

WHATAPARTNERSHIP, L.P., Petitioner v. SUITE ONE STAFFING GROUP, INC. Respondent.	Cancellation No. _____

2005 AUG 18 A 10:30
US PATENT & TRADEMARK OFFICE
TRADEMARK TTAB MAIL PROCESS

PETITION TO CANCEL

WhataPartnership, L.P., a limited partnership organized under the laws of Delaware, with offices located at 300 Delaware Avenue, Suite 900, Wilmington, DE 19801, hereby petitions the Trademark Trial and Appeal Board to cancel Registration No. 2,480,278 – WHAT-A-RACK ("Respondent's mark") for "restaurant services," registered in the Patent and Trademark Office, Principal Register, on August 21, 2001, by Suite One Staffing Group, Inc. ("Respondent"). In support of this Petition, WhataPartnership, L.P. states that it is and will continue to be damaged by the registration of Respondent's mark and petitions to cancel the subject registration on the following grounds:

A. Likelihood of Confusion between Respondent's mark and Petitioner's WHATABURGER and family of WHATA marks identified more fully below.

B. Respondent's abandonment of use of Respondent's mark and Respondent's corresponding Registration No. 2,480,278.

A. LIKELIHOOD OF CONFUSION

1. WhataPartnership, L.P. is the owner of all right, title and interest in and to the trademarks and service marks pleaded in this Petition to Cancel and licenses to Whataburger,

08-18-2005
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #39

Inc., a Texas corporation with principal offices at 4600 Parkdale Drive, Corpus Christi, Texas 74811-9230, the right to operate and to authorize franchisees to operate restaurants using the pleaded trademarks and service marks. (WhataPartnership, L.P. and Whataburger, Inc. are hereinafter collectively referred to as "Petitioner.")

2. Petitioner, either directly or through its franchisees, operates over 500 restaurants in the United States and Mexico under the WHATABURGER name.

3. Petitioner, through its predecessors in interest, adopted and commenced use of the WHATABURGER name as a service mark for restaurants services in 1950 and has used the name continuously and without interruption to the present day.

4. Petitioner uses the WHATABURGER name not only to identify restaurant services, but also as a trademark to identify a diverse array of food products.

5. Petitioner, prior to Respondent's adoption, use and registration of Respondent's mark, developed a family of WHATA marks to its identify food products as well as collateral goods such as printed materials and clothing.

6. Based on Petitioner's extensive, exclusive and continuous use of its WHATABURGER and WHATA marks in connection with restaurant services, food products and collateral goods, the name WHATABURGER and Petitioner's other WHATA marks have come to be recognized among the consuming public as designators of origin with respect to said services and products.

7. Petitioner is the owner of all right, title and interest in and to the following federal service mark and trademark registrations, which presently are valid and subsisting in law. Petitioner will submit current status and title copies, prepared by the Patent and Trademark

Office, of its pleaded registrations at the appropriate time in this proceeding. Photocopies are attached hereto as Exhibit A.

(a) Registration No. 652,137 – **WHATABURGER** for "hamburger sandwich," registered on the Principal Register September 24, 1957.

(b) Registration No. 891,082 – **WHATABURGER** for "restaurant services and drive in restaurant services," registered on the Principal Register May 12, 1970.

(c) Registration No. 1,011,927 – **WHATABURGER** for "hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches" and "restaurant and drive-in restaurant services," registered on the Principal Register on May 27, 1975.

(d) Registration No. 1,011,928 – **WHATABURGER & W Design** for "hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches" and "restaurant and drive-in restaurant services," registered on the Principal Register on May 27, 1975.

(e) Registration No. 1,014,196 – **WHATABURGER JR.** for "prepared hamburger sandwich for consumption on or off premises," registered on the Principal Register on June 24, 1975.

(f) Registration No. 1,116,918 – **WHATAMEAL** for "prepared meal consisting of a hamburger sandwich, french fries and a beverage for consumption on or off the premises," registered on the Principal Register April 24, 1979.

(g) Registration No. 1,206,344 – **WHATACATCH** for "breaded fish fillets suitable for fish sandwiches" and "prepared fish sandwich for consumption on or off the premises," registered on the Principal Register August 24, 1982.

(h) Registration No. 2,150,703 – **WHATASIZE IT!** for "restaurant services featuring a prepared meal containing french fries and a soft drink for consumption on or off the premises," registered on the Principal Register April 14, 1998.

(i) Registration No. 2,160,285 – **WHATACHICK'N** for "chicken sandwich," registered on the Principal Register May 26, 1998.

(j) Registration No. 2,335,590 – **WHATABURGER** for "restaurant services," registered on the Principal Register March 28, 2000.

(k) Registration No. 2,372,372 – **WHATAKIDS** for "clothing for children, namely, shirts, polo shirts, t-shirts, dresses, overalls, onesies, baseball caps and hats," registered on the Principal Register August 1, 2000.

(l) Registration No. 2,409,945 – **WHATACHILL** for "frozen flavored fruit drinks offered for sale exclusively through applicant's restaurants," registered on the Principal Register December 5, 2000.

(m) Registration No. 2,418,380 – **WHATAGUY** for "restaurant services," registered on the Principal Register January 2, 2000.

(n) Registration No. 2,432,191 – **WHATAKIDS** for "restaurant services," registered on the Principal Register February 27, 2001.

(o) Registration No. 2,519,854 – **WHATACOMIX** for "comic books and children's activity books," registered on the Principal Register December 18, 2001.

(p) Registration No. 2,534,527 – **WHATAPLACE! WHATATASTE!** for "restaurant services," registered on the Principal Register January 29, 2002.

(q) Registration No. 2,757,109 – **WHATABURGER** for "charitable fundraising services," registered on the Principal Register August 26, 2003.

(r) Registration No. 2,846,139 – **WHATABLENDERS** for "milk shake drinks, bases for milk shake drinks and candy flavored toppings therefor, registered on the Principal Register May 25, 2004.

8. Petitioner's Reg. Nos. 652,137; 891,082: 1,011,927; 1,011,928; 1,014,196; 1,116,918; 1,206,344; 2,150,703; and 2,160,285 are incontestable as to the products and services listed therein and are conclusive evidence of the validity of the registered marks, Petitioner's ownership of the marks, and of Petitioner's exclusive right to use the marks in commerce on or in connection with the products and services identified in the registrations.

9. By reason of Petitioner's extensive, exclusive and continuous use of its WHATABURGER and WHATA marks, Petitioner has become known and recognized as the owner of the aforesaid marks.

10. On information and belief, Respondent provides restaurant services under Respondent's mark.

11. Respondent's services are identical and/or otherwise closely related to Petitioner's goods and services offered under Petitioner's WHATABURGER and WHATA marks.

12. Respondent's mark so resembles Petitioner's WHATABURGER and WHATA marks as to be likely, when applied to Respondent's services, to cause confusion, mistake and to deceive.

13. Respondent's mark is confusingly similar to Petitioner's WHATABURGER and WHATA marks, so that continued registration of Respondent's mark would be inconsistent with and damaging to Petitioner's prior and exclusive rights in and to its WHATABURGER and WHATA marks in connection with the goods and services with which they are used.

14. Petitioner will continue to be damaged by the registration of Respondent's mark.

B. ABANDONMENT

15. Petitioner realleges and incorporates by reference Paragraphs 1 through 14 of this Petition to Cancel.

16. On information and belief, Respondent has made no commercial use of Respondent's mark in connection with restaurant services for at least three years.

17. On information and belief, Respondent's non-use and/or discontinuance of use of Respondent's mark in connection with restaurant services has been without the intention to resume use of Respondent's mark in connection with the stated services.

18. On information and belief, Respondent has abandoned use of Respondent's mark and Respondent's corresponding Registration No. 2,480,278.

WHEREFORE, Petitioner prays that its Petition be sustained and that Registration No. 2,480,278 be cancelled.

Petitioner hereby authorizes the filing fee of THREE HUNDRED DOLLARS ($300.00) and any additional charges necessary to institute this proceeding to be debited from the deposit account of Petitioner's counsel, Wiley, Rein & Fielding, Account No. 501129.

This Petition to Cancel is being filed by the undersigned attorneys at law, duly authorized to represent Petitioner in this proceeding, pursuant to Trademark Rule 2.111(b).

Respectfully submitted,

WHATAPARTNERSHIP, L.P.

By: _____

J. Timothy Hobbs
Christopher Kelly
WILEY, REIN & FIELDING
1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000

Attorneys for Petitioner

Dated: August 18, 2005

WRFMAIN 12365987.1

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 652,137

United States Patent and Trademark Office

Registered Sep. 24, 1957

10 Year Renewal

Renewal Term Begins Sep. 24, 1997

TRADEMARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY ASSIGNMENT, CHANGE OF NAME, CHANGE OF NAME, ASSIGNMENT AND MERGER WITH DOBSON, HARMON A. (UNITED STATES CITIZEN) CORPUS CHRISTIE, TX

FOR: HAMBURGER SANDWICH, IN CLASS 46 (INT. CL. 30).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

SER. NO. 71-667,794, FILED 6-7-1954.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on July 29, 1997.

Int. Cl.: 42

Prior U.S. Cl.: 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 891,082

Registered May 12, 1970

Renewal Approved Feb. 15, 1990

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, ASSIGNEE BY ASSIGNMENT, MERGER AND CHANGES OF NAME FROM DOBSON, GRACE W. (UNITED STATES CITIZEN), DOING BUSINESS AS WHATABURGER DRIVE INNS, CORPUS CHRISTI, TX

OWNER OF U.S. REG. NO. 652,137.

FOR: RESTAURANT SERVICES AND DRIVE IN RESTAURANT SERVICES, IN CLASS 100 (INT. CL. 42).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

SER. NO. 72-291,496, FILED 2-20-1968.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 27, 1990.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cls.: 29, 30, 32 and 42

Prior U.S. Cls.: 45, 46 and 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 1,011,927

Registered May 27, 1975

Renewal Term Begins May 27, 1995

TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY CHANGE OF NAME, ASSIGNMENT AND MERGER WITH WHATABURGER, INC. (TEXAS CORPORATION) CORPUS CHRISTI, TX

THE DRAWING IS LINED FOR THE COLORS ORANGE AND BROWN, BUT COLOR IS NOT CLAIMED AS A FEATURE OF THE MARK.

FOR: SOFT DRINKS, IN CLASS 45 (INT. CL. 32).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

FOR: HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, [POTATO CHIPS, CORN CHIPS,] FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANKFURTER SANDWICHES, IN CLASS 46 (INT. CLS. 29 AND 30).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

FOR: RESTAURANT AND DRIVE-IN RESTAURANT SERVICES, IN CLASS 100 (INT. CL. 42).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

SER. NO. 72-442,464, FILED 11-29-1972.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on July 2, 1996.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cls.: 29, 30, 32 and 42

Prior U.S. Cls.: 45, 46 and 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 1,011,928

Registered May 27, 1975

Renewal Term Begins May 27, 1995

TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY CHANGE OF NAME, ASSIGNMENT AND MERGER WITH LUTZ, GRACE DOBSON (UNITED STATES CITIZEN), AKA GRACE W. DOBSON, CORPUS CHRISTI, TX

THE DRAWING IS LINED FOR THE COLORS ORANGE AND BROWN, BUT COLOR IS NOT CLAIMED AS A FEATURE OF THE MARK.

FOR: SOFT DRINKS, IN CLASS 45 (INT. CL. 32).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

FOR: HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, [POTATO CHIPS, CORN CHIPS,] FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANK-

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 5, 1996.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,014,196

Registered June 24, 1975

10 Year Renewal

Renewal Term Begins June 24, 1995

TRADEMARK
PRINCIPAL REGISTER

WHATABURGER JR.

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY CHANGE OF NAME AND ASSIGNMENT FROM LUTZ, GRACE DOBSON (UNITED STATES CITIZEN) CORPUS CHRISTI, TX

OWNER OF U.S. REG. NOS. 652,137, 891,082 AND 963,811.

FOR: PREPARED HAMBURGER SANDWICH FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 29 (U.S. CL. 46).

FIRST USE 4-1-1973; IN COMMERCE 8-29-1973.

SER. NO. 73-017,283, FILED 11-26-1973.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Aug. 8, 1995.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 1,116,918

Registered Apr. 24, 1979

Renewal Term Begins Apr. 24, 1999

TRADEMARK
PRINCIPAL REGISTER

WHATAMEAL

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981, BY MERGER WITH WHATABURGER SYSTEMS, INC. (TEXAS CORPORATION) CORPUS CHRISTI, TX

FOR: PREPARED MEAL CONSISTING OF A HAMBURGER SANDWICH, FRENCH FRIES AND A BEVERAGE FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 30 (U.S. CL. 46).

FIRST USE 7-1-1975; IN COMMERCE 7-1-1975.

SER. NO. 73-155,977, FILED 1-20-1978.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 30, 1999.

Int. Cls.: 29 and 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,206,344
Registered Aug. 24, 1982

TRADEMARK
Principal Register

WHATACATCH

Whataburger Systems, Inc. (Texas corporation)
3104 S. Alameda
Corpus Christi, Tex. 78404

For: BREADED FISH FILLETS SUITABLE FOR FISH SANDWICHES, in CLASS 29 (U.S. Cl. 46).

First use Oct. 14, 1978; in commerce Apr. 1, 1979.

For: PREPARED FISH SANDWICH FOR CONSUMPTION ON OR OFF THE PREMISES, in CLASS 30 (U.S. Cl. 46).

First use Oct. 14, 1978; in commerce Apr. 1, 1979.

Owner of U.S. Reg. Nos. 652,137, 1,011,928 and others.

Ser. No. 226,971, filed Aug. 10, 1979.

JERRY L. PRICE, Primary Examiner

ROBERT C. CLARK JR., Examiner

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,150,703

United States Patent and Trademark Office

Registered Apr. 14, 1998

SERVICE MARK
PRINCIPAL REGISTER

WHATASIZE IT!

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES FEATURING A PREPARED MEAL CONTAINING FRENCH FRIES AND A SOFT DRINK FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 7-4-1994; IN COMMERCE 7-4-1994.

OWNER OF U.S. REG. NOS. 652,137, 1,116,918 AND OTHERS.

SER. NO. 75-261,843, FILED 3-24-1997.

ALICE SUE CARRUTHERS, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,160,285

Registered May 26, 1998

TRADEMARK
PRINCIPAL REGISTER

WHATACHICK'N

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: CHICKEN SANDWICH, IN CLASS 30 (U.S. CL. 46).

FIRST USE 1-1-1984; IN COMMERCE 1-1-1984.

OWNER OF U.S. REG. NOS. 652,137, 1,116,918 AND OTHERS.

SER. NO. 75-261,844, FILED 3-24-1997.

SUSAN LESLIE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,335,590

United States Patent and Trademark Office

Registered Mar. 28, 2000

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

OWNER OF U.S. REG. NOS. 1,011,927, 2,160,285 AND OTHERS.

SER. NO. 75-674,147, FILED 4-5-1999.

DAVID ETTINGER, EXAMINING ATTORNEY

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

Reg. No. 2,372,372

United States Patent and Trademark Office

Registered Aug. 1, 2000

TRADEMARK
PRINCIPAL REGISTER

WHATAKIDS

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: CLOTHING FOR CHILDREN, NAMELY, SHIRTS, POLO SHIRTS, T-SHIRTS, DRESSES, OVERALLS, ONESIES, BASEBALL CAPS AND HATS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 11-0-1998; IN COMMERCE 2-15-1999.

SER. NO. 75-654,525, FILED 3-5-1999.

SUSAN LESLIE DUBOIS, EXAMINING ATTORNEY

Int. Cl.: 32

Prior U.S. Cls.: 45, 46 and 48

Reg. No. 2,409,945

United States Patent and Trademark Office

Registered Dec. 5, 2000

TRADEMARK
PRINCIPAL REGISTER

WHATACHILL

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: FROZEN FLAVORED FRUIT DRINKS OFFERED FOR SALE EXCLUSIVELY THROUGH APPLICANT'S RESTAURANTS, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 10-0-1997; IN COMMERCE 10-0-1997.

SER. NO. 75-621,986, FILED 1-15-1999.

MITCHELL FRONT, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,418,380

United States Patent and Trademark Office

Registered Jan. 2, 2001

SERVICE MARK
PRINCIPAL REGISTER

WHATAGUY

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

SN 75-698,642, FILED 5-6-1999.

KATHERINE STOIDES, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,432,191

United States Patent and Trademark Office

Registered Feb. 27, 2001

SERVICE MARK
PRINCIPAL REGISTER

WHATAKIDS

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 4-1-1999; IN COMMERCE 4-1-1999.

SN 75-647,561, FILED 2-22-1999.

MITCHELL FRONT, EXAMINING ATTORNEY

Int. Cl.: 16

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38 and 50

Reg. No. 2,519,854

United States Patent and Trademark Office

Registered Dec. 18, 2001

TRADEMARK
PRINCIPAL REGISTER

WHATACOMIX

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE, SUITE 900
WILMINGTON, DE 19801

FOR: COMIC BOOKS AND CHILDREN'S ACTIVITY BOOKS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

SER. NO. 76-188,399, FILED 1-2-2001.

EDWARD TIMBERLAKE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,534,527

United States Patent and Trademark Office Registered Jan. 29, 2002

SERVICE MARK
PRINCIPAL REGISTER

WHATAPLACE! WHATATASTE!

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 10-11-1998; IN COMMERCE 10-11-1998.

SN 75-657,290, FILED 3-10-1999.

JASON TURNER, EXAMINING ATTORNEY

Int. Cl.: 36

Prior U.S. Cls.: 100, 101, and 102

United States Patent and Trademark Office

Reg. No. 2,757,109
Registered Aug. 26, 2003

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE
SUITE 900
WILMINGTON, DE 19801

FOR: CHARITABLE FUNDRAISING SERVICES, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-5-2001; IN COMMERCE 10-5-2001.

SN 76-332,382, FILED 10-31-2001.

RUSS HERMAN, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 2,846,139

United States Patent and Trademark Office

Registered May 25, 2004

TRADEMARK
PRINCIPAL REGISTER

WHATABLENDERS

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE
SUITE 900
WILMINGTON, DE 19801

FOR: MILK SHAKE DRINKS, BASES FOR MILK SHAKE DRINKS AND CANDY FLAVORED TOPPINGS THEREFOR, IN CLASS 30 (U.S. CL. 46).

FIRST USE 9-4-2002; IN COMMERCE 11-4-2002.

OWNER OF U.S. REG. NOS. 1,116,918, 2,409,945, AND OTHERS.

SN 76-473,190, FILED 12-6-2002.

DAWN FELDMAN, EXAMINING ATTORNEY

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: September 14, 2005

Cancellation No. 92044859

WHATAPARTNERSHIP, L.P.

v.

Suite One Staffing
Group, Inc.

Rochelle Ricks, Paralegal Specialist:

This Office has been unable to effect service of notice of this proceeding on the respondent. Accordingly, it will be necessary before proceeding herein to give notice by publication in the Official Gazette, as prescribed by Trademark Rule 2.118.

Pending such publication, proceedings herein are suspended.

cc:

Christopher Kelly
Wiley, Rein & Fielding
1776 K St., N.W.
Washington, DC 20006

Service by Publication

A petition to cancel the registration identified below having been filed, and the notice of such proceeding sent to registrant at the last known address having been returned by the Postal Service as undeliverable, notice is hereby given that unless the registrant listed herein, its assigns or legal representatives, shall enter an appearance within thirty days of this publication, the cancellation will proceed as in the case of default.

WHAT-A-RACK, Irving, TX, Registration No. **2480278** for the mark **"WHAT-A-RACK"**, Cancellation No. **92044859.**

DWAYNE BOWLING
LEAD LEGAL ASSISTANT:
Trademark Trial
and Appeal Board, for
Lynne G. Beresford
Acting Deputy Commissioner for
Trademark Operations

Scheduled for service by publication in the Official Gazette dated OCTOBER 18, 2005.

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: December 28, 2005

Cancellation No. 92044859

Registration No. 2480278

WHATAPARTNERSHIP, L.P.

v.

Suite One Staffing Group, Inc.

No appearance having been entered in response to service effected by publication in the Official Gazette, the petition to cancel is granted, and the above-identified registration will be cancelled in due course.

By the Trademark Trial and Appeal Board

Matelski/dab

U. S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Whatapartnership, L.P.

v.

Suite One Staffing Group, Inc.

Cancellation No. 92044859

Christopher Kelly of Wiley, Rein & Fielding for Whatapartnership, L.P.

Suite One Staffing Group, Inc., pro se.

The petition of Whatapartnership, L.P. having been granted on December 28, 2005, Registration No. 2480278 is hereby cancelled.

JAN 11 2006

Lynne G. Beresford
Commissioner for Trademarks

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

WHATABURGER PARTNERSHIP, L.P.	)	
	)	
Opposer,	)	
	)	Opp. No.: 91/189,023
v.	)	Ser. No.: 77/494,179
	)	Mark: **WHATTA WING!**
SARKIS AVAKIAN,	)	
	)	
Applicant.	)	

OPPOSER'S OBJECTIONS AND RESPONSES TO APPLICANT'S REVISED FIRST SET OF INTERROGATORIES TO OPPOSER

Opposer, Whataburger Partnership, L.P., through counsel and pursuant to Rule 2.116 and 2.120(d) of the Trademark Rules of Practice and Rule 33 of the Federal Rules of Civil Procedure, hereby provides the following general objections and responses to "Applicant's Revised First Set of Interrogatories" ("Interrogatories"), as follows:

A. The information supplied herein is not based solely on the knowledge of the executing party, but includes the knowledge of the party's agents and attorneys, unless privileged.

B. The word usage and sentence structure is that of the attorneys and does not purport to be the exact language of the executing party.

[redacted]

[redacted]

RESPONSES TO INTERROGATORIES

[redacted]

INTERROGATORY NO. 3. For each trademark, service mark or trade names containing the word(s) "Whata," "What a," "What-a", or "Whatta" that Opposer alleges the Whatta Wing! Mark has or will conflict with: (a) set forth each State in which the trademark, service mark or trade name has ever been used; (b) set forth the trademark, service mark or trade name as used in each State and (c) set forth the time period in which it was used.

ANSWER: Opposer objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome given Opposer's use of its WHATABURGER and other "whata"

formative marks for a period approaching sixty years. Opposer further objects to this Interrogatory on the grounds that it does not seek information calculated to lead to the discovery of admissible evidence. Without waiver of its objections, Opposer refers Applicant to the list of marks in Opposer's Notice of Opposition in this case. Opposer further responds that it has, at various times over the past sixty years, operated facilities or licensed third parties to operate facilities under the Whataburger Marks in at least the following states: Alabama; Arizona; Arkansas; Florida; Georgia; Louisiana; Mississippi; New Mexico; Oklahoma; and Texas; as well as in Mexico. Opposer expanded outside the state of Texas for the first time in 1959. Opposer also states that it has operated an internet website (which is accessible throughout the world) through which services are advertised and/or goods are sold, continuously since as early as 1996.

INTERROGATORY NO. 4. For each trademark, service mark or trade names containing the word(s) "Whata," "What a," "What-a", or "Whatta" that Opposer alleges the Whatta Wing! Mark has or will conflict with, describe each of the goods and/or services for which Opposer has ever used or has been identified by such marks.

ANSWER: Opposer objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome given Opposer's use of its WHATABURGER and other "whata" formative marks for a period approaching sixty years. Without waiver of its objections, Opposer refers Applicant to the list of pleaded registrations in Opposer's Notice of Opposition in this case. Without limitation, Opposer further responds that Opposer offers restaurant services and a variety of food products under its WHATABURGER and other WHATA formative marks. Opposer's WHATABURGER, WHATACHICK'N and other WHATA formative marks also are used on collateral products such as clothing and toys. Opposer further states that it presently sells a chicken sandwich product under the mark WHATACHICK'N, and has investigated a "boneless wing" product potentially under the trademark WHATAWING. Further, within the last six months, Opposer offered a LTO (limited time offer) chicken sandwich product under the

mark BUFFALO WHATACHICK'N. Opposer also provides stadium facilities under the WHATABURGER name.

[redacted]

[redacted]

INTERROGATORY NO. 12. Describe all administrative, arbitration, or judicial proceedings (other than the present proceeding) involving any mark, including, but not limited to, trademarks, service marks or trade names containing the word(s) "Whata," "What a," "Whata," or "Whatta", which Whataburger has knowledge of or has been a party to, including but not limited to *What-a-Burger of Va., Inc. v. Whataburger, Inc.*, and identify all documents referring or relating thereto.

ANSWER: Opposer objects to this Interrogatory on the grounds that it seeks information protected by the attorney-client privilege, seeks information that is not calculated to lead to the discovery of admissible evidence, and is overly broad and unduly burdensome,

particularly given Opposer's use of its WHATABURGER and other "whata" formative marks for a period approaching sixty years, and is duplicative. Opposer also objects to the extent that this Interrogatory seeks to impose the undue burden of summarizing publicly available information on Opposer. Without waiver of its objections, Opposer responds Without waiver of its objections, Opposer responds that, in addition to the present action, it (or its predecessors-in-interest) has engaged in at least the following actions in the U.S. Trademark Trial and Appeal Board involving WHATA formative marks:

Proceeding No.	Date Filed	Defendant	Mark	Status
92050093	10/22/2008	Gielow Pickles, Inc.	WHAT A PICKLE! S#:78554040 R#:3155106	Pending
92050094	10/22/2008	Agroamerica Corporation	WATTA S#:77013481 R#:3389431	Dismissed after amendment of registration
91186046	08/27/2008	Mahaney, Christine J.	WHATADOG S#:77403811	Sustained
91183490	04/11/2008	TBC Investments Inc. Mark:	WHATTACAKE S#:77286324	Sustained
91175612	02/07/2007	Com-Pac International, Inc.	WHATABAG S#78679691	Dismissed after amendment of application
91179671	09/17/2007	Agroamerica Corporation	WATTAFRUIT! S#:77057347	Dismissed after amendment of application
92044859	08/18/2005	Suite One Staffing Group, Inc.	WHAT-A-RACK	Sustained

			S# 75452822 R# 2480278	
91166232	08/05/2005	Halbro, LLC	THE "WOW!...WHAT A SUB!!" BOYZ SUBS & STEAKS	Dismissed after amendment of mark
91163686	01/05/2005	Noret, R.A. "Skeet"	CHIHUAHUA "WHAT A SANDWICH" S#:78340067	Sustained
91161459	07/21/2004	SCJ Enterprises, Inc.	WHATTA JERK X-TREME BEEF JERKY S#:76511370	Sustained
91161455	07/21/2004	SCJ Enterprises, Inc.	WHATTA JERK X-TREME BEEF JERKY S#:76511369	Sustained
91161129	05/14/2004	W.A.B. Bakery Franchising Ltd.	WHAT A BAGEL! S#:78200218	Sustained
91060325	11/28/1977	W. H. THOMPSON AND SON	WHATAMELON S#:73103726 R#:1149107	Dismissed
91053737	12/04/1972	WATSCO, INC.	WAT-A-EGG S#:72383991 R#:1058014	Dismissed

Opposer also has engaged in the following judicial action: *What-A-Burger of Virginia, Inc. et al v. Whataburger, Inc.*, Case No. 03-1517 (E.D. Va. and 4th Cir. 2004).

INTERROGATORY NO. 13. Identify and describe in detail each and every instance of "actual confusion" involving Whataburger's trademarks, service marks or trade names and any other trademark, service mark or trade names, including, but not limited to, Whatta Wing!'s trademarks, service marks or trade names.

ANSWER: Without waiver of its objections, Opposer has no information responsive to this Interrogatory, but reserves the right to supplement this response based on information learned in discovery.

[redacted]

[redacted]

INTERROGATORY NO. 18. Identify each State in which Whataburger is, or ever has been, qualified and/or licensed to do business.

ANSWER: Opposer objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome, particularly given Opposer's use and/or franchising of its WHATABURGER and other "whata" formative marks for a period approaching sixty years, seeks information that is not calculated to lead to the discovery of admissible evidence. Opposer further objects to the term "licensed to do business" as vague, ambiguous and confusing. Without waiver of its objections, Opposer responds that it is or has been qualified to do business in at least Alabama, Arkansas, Arizona, Florida, Georgia, Louisiana, Mississippi, New Mexico, Oklahoma and Texas. Opposer further responds that, at various times, it has duly complied with the requirements for filing uniform franchise offerings and disclosures in each state in which it has offered to sell franchises.

WHATABURGER PARTNERSHIP L.P.

By: Jennifer J. Elgin

Christopher Kelly
Jennifer L. Elgin
Wiley Rein LLP
1776 K Street NW
Washington, DC 20006
(202) 719-7000

Attorneys for Opposer

Dated: January 22, 2010

CERTIFICATE OF SERVICE

I hereby certify that a copy of OPPOSER'S OBJECTIONS AND RESPONSES TO APPLICANT'S REVISED FIRST SET OF INTERROGATORIES TO OPPOSER was sent via overnight mail to the following:

Sheryl Koval Garko, Esq.
Goodwin Proctor LLP
Exchange Place
53 State Street
Boston, MA 02109-2881

The 22nd day of January, 2009

Jennifer J. Elgin

Jennifer L. Elgin

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

* * * * * * * * *

WHATABURGER PARTNERSHIP, Opposition No. 91189023

Opposer,

vs. Serial No. 77/494179
Mark: Whatta Wing!

SARKIS AVAKIAN,

Applicant.

* * * * * * * * * * *

DEPOSITION OF SARKIS AVAKIAN, called for examination by counsel for the Opposer, at the offices of Sherin & Lodgen LLP, 101 Federal Street, Boston, Massachusetts, before Judith A. Twomey, RPR, of Capital Reporting Company, a Notary Public within and for the Commonwealth of Massachusetts, beginning at 9:25 a.m. on Friday, June 25, 2010, when were present on behalf of the respective parties:

 © 2010

A P P E A R A N C E S

Wiley Rein LLP
by JENNIFER L. ELGIN, ESQ.
1776 K Street NW
Washington, DC 20006
for the Opposer

Goodwin Procter LLP
by SHERYL KOVAL GARKO, ESQ.
Exchange Place
Boston, MA 02109
for the Applicant

 © 2010

I N D E X

DEPONENT	PAGE
Sarkis Avakian	
Examination by Ms. Elgin:	5

E X H I B I T S

NO.	DESCRIPTION	PAGE
1	Notice of Opposition	15
2	Answer	15
3	Objections and Responses	17
4	Objections and Responses	29
5	Amended Objections/Responses	34
6	Objections and Responses	38
7	Photos	63
8 & 9	DOR documents	80
10	Napkin	99
11	Photo	103
12	Photos	104

 © 2010

13		Google document	117
14		Menu	118
15		Whataburger menu	127
16		Facebook document	130
17		USPTO document	140
18		Whatta Wing! document	160
19		List of names	171
20		Whatta Blast document	175
21		Whatta Crock document	176
22		What a Pair document	178
23		Whata Lotta Pizza document	179
24		Whatta Wing! document	185
25		Promotion	186
26		"Dining Out" article	187
27	& 28	CDs (retained by counsel)	192

(*Exhibits attached to transcript.)

[redacted]

Q. Are you familiar with Whataburger?

A. I am now.

Q. How did you become aware of Whataburger?

A. Cease and desist letter.

Q. And before the cease and desist letter, which I understand you say you received in the fall of 2008, had you ever heard of my client?

A. No.

Q. You've never eaten there?

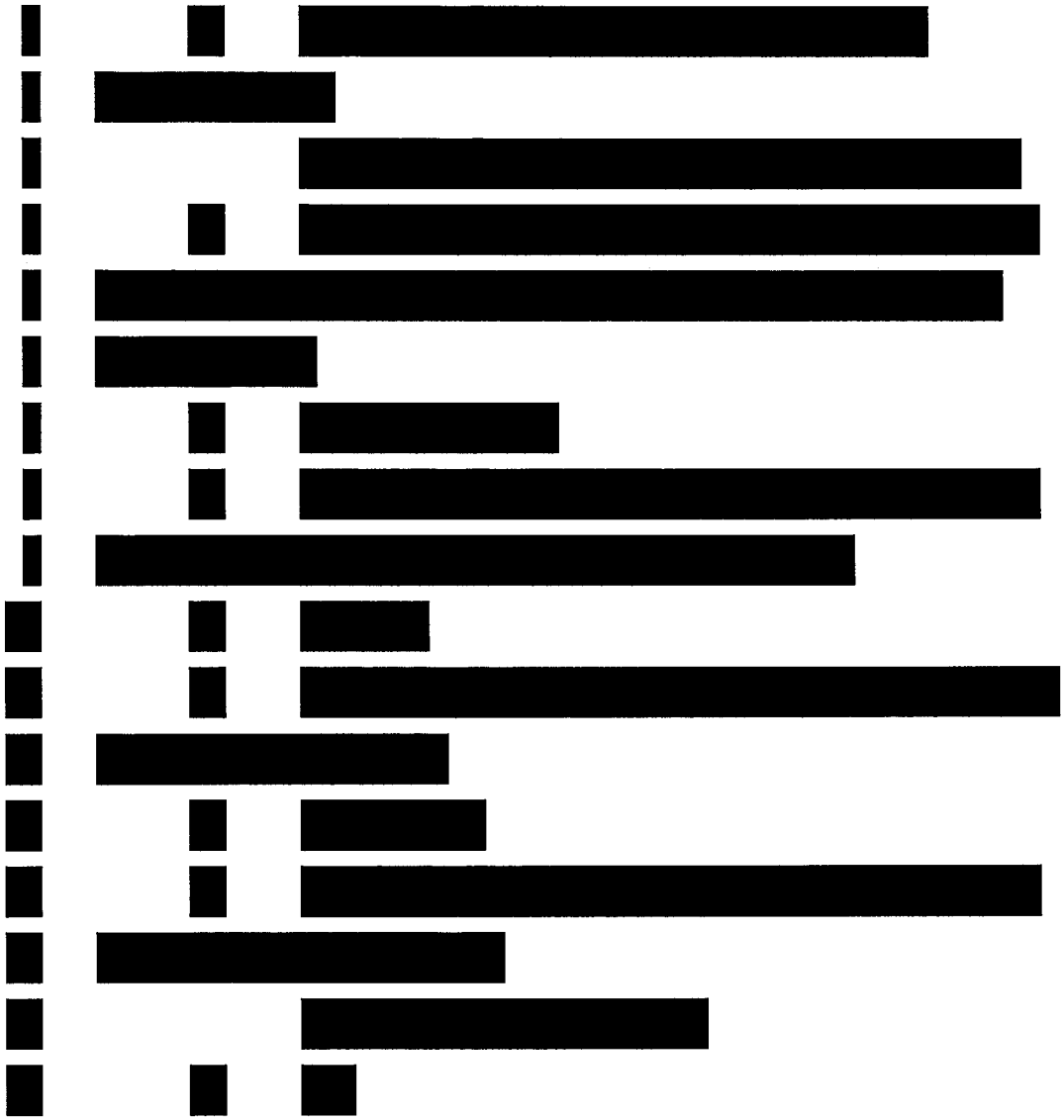
A. No.

Q. At a Whataburger restaurant?

A. No.

[redacted]

 © 2010



Q. How did you choose the font for your trademark?

A. On my computer, put in the name and punch in different fonts.

Q. Which font did you choose?

 © 2010

A. Porkies.
Q. What is it?
A. Porkies.
Q. Porkies?
A. Mm hmm.
(Exhibit 12 marked for identification.)
Q. Why did you choose porkies?
A. Somewhere in '07.
Q. Why?
A. Oh, why?
Q. Yeah.
A. The funky font.
Q. Did you look at any other fonts before you chose that one?
A. About a hundred.
Q. Did you look at any other signages of other restaurants before you chose that?
A. No.
Q. So you just went through and found one that you liked?
A. I did.
Q. Why did you choose yellow?

A. Because red and yellow are food.

Q. I'm sorry?

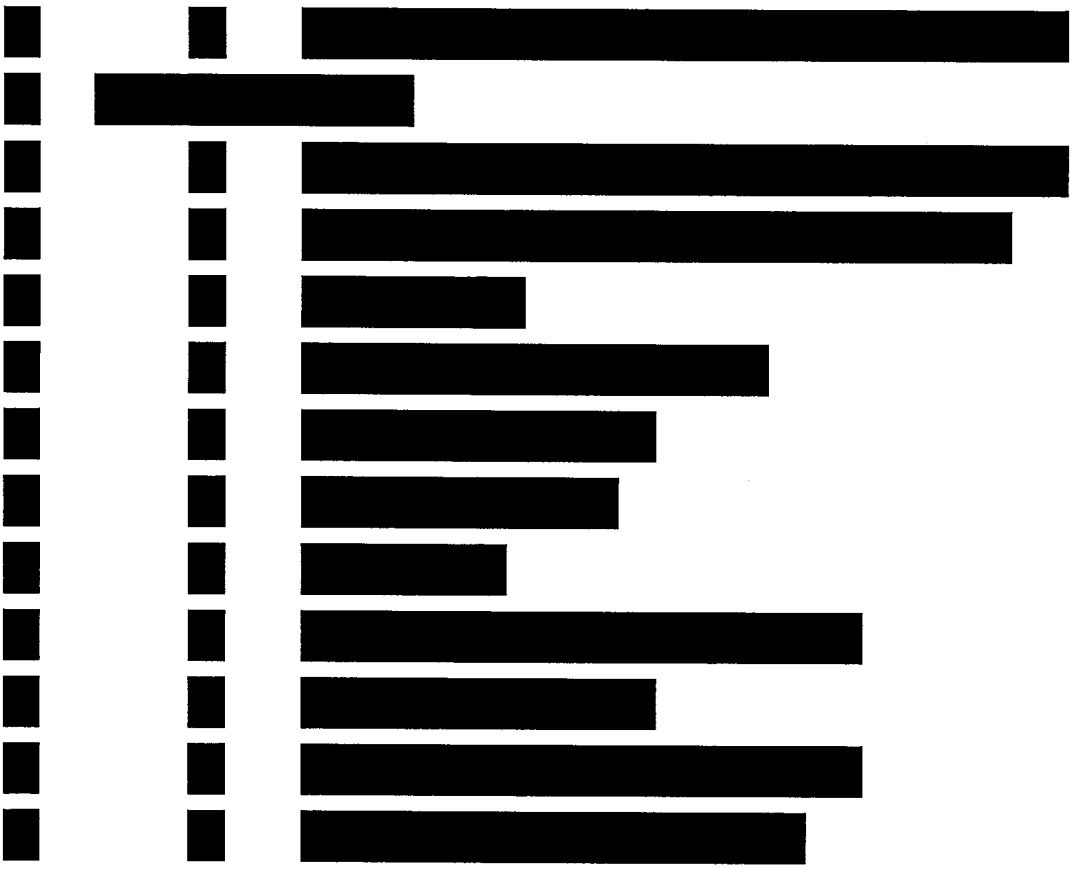
A. Red and yellow are food.

Q. Why is that?

A. It's a given.

Q. Where does that come from?

A. Restaurant surveys. McDonald's is red and yellow. Burger King is red and yellow. Represents mustard and ketchup.



[redacted]

Q. So when did you choose "Whatta Wing!"?

A. Somewhere in '07.

Q. Why?

A. Whatta, the way it's written, is a Boston slang for something that's, I guess, pretty good, is our slang for it.

Q. Can you give me some examples of how that's used?

A. WB Mason has an ad campaign that says "Whatta Bargain," and they only use it local.

Q. Anything else?

A. Just whatta is a slang -- I don't know how to describe it other than it's Boston slang for something you use talking.

Q. Okay. Did you go through any other names before you chose that one?

A. Yeah, I'm sure there were several.

Q. Do you recall any of them?

A. Originally, I was going to call it butta

bing "Whatta Wing!" but it was too long.

Q. So what is "whatta" slang for?

A. Something that's -- something that's -- I don't know how to describe it. It's like a car, whatta car, if you see a nice car or a nice -- I don't know. How do you describe a slang?

Q. Does it stand for something else?

A. Other than being a slang?

Q. It's not like a trick question here or anything.

A. I don't know how to answer.

Q. Does it mean like what a, is that what it means?

A. In a Boston slang, yeah.

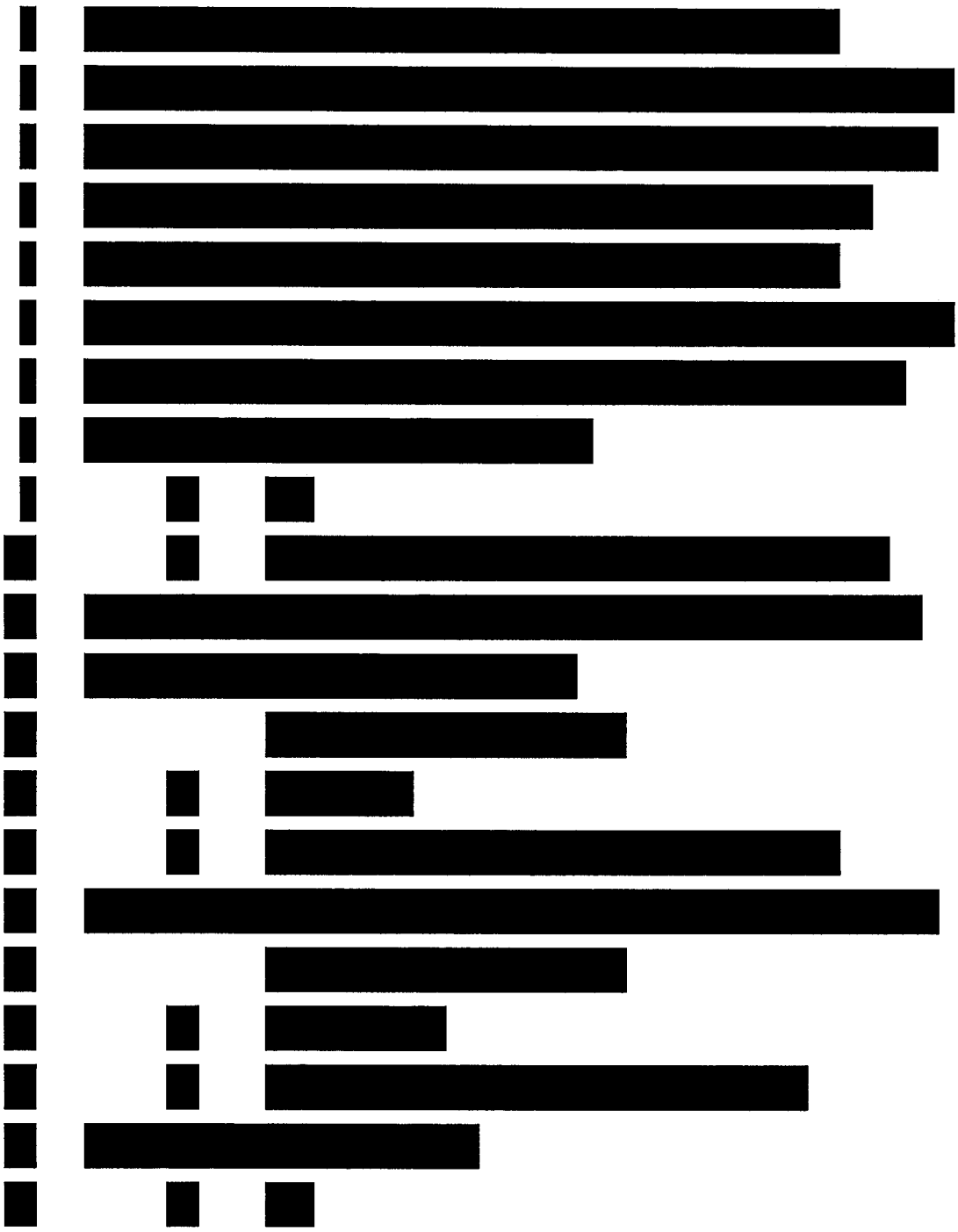
Q. Well, Bostonians say --

A. Whatta.

Q. "Whatta" instead of "what a"?

A. We abbreviate, yeah.

[redacted]



22 Q. Has anybody asked if you were affiliated

 © 2010

with Whataburger?

A. No.

Q. Has anybody thought that you were Whataburger?

A. No.

Q. Anybody sent you an e-mail referring to Whataburger outside of your communications with your counsel?

A. No.

Q. Has anybody ever inquired whether "Whatta Wing!" is related to Whataburger in some way?

A. No.

Q. Have you ever been involved in a dispute before relating to a trademark?

A. A dispute?

Q. Yes.

A. I don't remember.

Q. Anybody ever accused you of trademark infringement?

A. Oh, no.

[redacted]

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL & APPEAL BOARD

WHATABURGER PARTNERSHIP Opposer, *v.* SARKIS AVAKIAN, Applicant.	Opposition No. 91189023 Serial No. 77/494179 Mark: Whatta Wing!

APPLICANT'S OBJECTIONS AND RESPONSES TO OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSION TO APPLICANT

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, Applicant Sarkis Avakian d/b/a Whatta Wing! ("Applicant" or "Whatta Wing!") hereby responds to the First Set of Requests for Admission served by Whataburger Partnership ("Opposer" or "Whataburger").

GENERAL OBJECTIONS

The following General Objections apply to and are incorporated by reference in each and every response to Opposer's Requests For Admission.

1. Applicant objects to the Opposer's Requests and "Definitions" and "Instructions" to the extent they attempt to impose any obligations different from or in addition to those obligations imposed by the Federal Rules of Civil Procedure or the Rules of the Trademark Trial and Appeal Board.

2. Applicant objects to each Request to the extent it is premature in that fact discovery is ongoing, and expert discovery has not yet commenced.

3. Applicant objects to each Request as unduly burdensome to the extent that it seeks to require Applicant to provide any information beyond what is available to Applicant at present from a reasonable search of Applicant's own physical files at Applicant's principal place of business and from reasonable inquiry of Applicant's present employees.

4. The following responses reflect Applicant's present knowledge, information and belief and may be subject to change or modification based on Applicant's further discovery, including expert discovery, or on facts or circumstances which may come to Applicant's knowledge. Applicant reserves the right to rely on additional information that was obtained during yet to be conducted discovery and/or investigation.

5. Specifically incorporating each of the foregoing objections into each answer below, and without waiving any general objections, Applicant responds as follows:

REQUESTS FOR ADMISSION

[redacted]

REQUEST NO. 4 Admit the Applicant's Mark and Opposer's Marks are constructed the same way.

RESPONSE: Applicant objects to this request because it is vague and ambiguous. As a result, Applicant cannot admit or deny this request.

REQUEST NO. 5 Admit that the terms "whata" and "whatta" are legally identical.

RESPONSE: Applicant cannot admit or deny this request because it impermissibly seeks a legal conclusion.

[redacted]

REQUEST NO. 7 Admit that, at least for purposes of this proceeding, the services offered by Applicant and Opposer are identical.

RESPONSE: Denied.

[redacted]

REQUEST NO. 10 Admit that Applicant seeks to register Applicant's Mark for the identical "restaurant services" as the marks recited in Request No. 9.

RESPONSE: Denied.

REQUEST NO. 11 Admit that, at least for purposes of these proceedings, Applicant's restaurant services and Opposer's food products are related.

RESPONSE: Applicant cannot admit or deny this request because it impermissibly seeks a legal conclusion.

[redacted]

[redacted]

REQUEST NO. 20 Admit that the terms WINGS and CHICK'N have similar connotations.

RESPONSE: Denied.

[redacted]

[redacted]

REQUEST NO. 26 Admit that the target consumers are likely to be confused between the source of the goods and services sold under Applicant's Mark and Opposer's Marks.

RESPONSE: Denied.

[redacted]

[redacted]

REQUEST NO. 33 Admit that Applicant had knowledge of Opposer and/or Opposer's Marks at the time it adopted Applicant's Mark.

RESPONSE: Denied.

[redacted]

REQUEST NO. 35 Admit that Applicant's <whattawing.com.> website and menu feature the color orange.

RESPONSE: Denied.

REQUEST NO. 36 Admit that Applicant copied Opposer's marks in choosing Applicant's Marks.

RESPONSE: Denied.

[redacted]

REQUEST NO. 40 Admit that Opposer will be damaged by the registration of Applicant's Mark.

RESPONSE: Denied.

REQUEST NO. 41 Admit that Applicant's Mark is confusingly similar to Opposer's Marks.

RESPONSE: Denied.

Respectfully submitted,

SARKIS AVAKIAN

By his Attorneys,

Dated: August 28, 2009

/s/ Sheryl Koval Garko
Mark S. Puzella
Robert M. O'Connell, Jr.
Chelsea Teachout
Sheryl Koval Garko
GOODWIN PROCTER LLP
Exchange Place
53 State Street
Boston, MA 02109-2881
Tel: 617/570-1000
Fax: 617/523-1231

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing APPLICANT'S OBJECTIONS AND RESPONSES TO OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSION upon Opposer's counsel of record by depositing one copy thereof in a sealed envelope in the United States mail, first-class, postage prepaid, on August 28, 2009, addressed as follows:

Christopher Kelly
Wiley Rein LLP
1776 K Street NW
Washington, DC 20006

/s/ Sheryl Koval Garko
Sheryl Koval Garko

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL & APPEAL BOARD

WHATABURGER PARTNERSHIP Opposer, *v.* SARKIS AVAKIAN, Applicant.	Opposition No. 91189023 Serial No. 77/494179 Mark: Whatta Wing!

APPLICANT'S OBJECTIONS AND RESPONSES TO OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT

Pursuant to Federal Rule of Civil Procedure 33, Applicant Sarkis Avakian d/b/a Whatta Wing! ("Applicant" or "Whatta Wing!") hereby responds to the First Set of Interrogatories served by Whataburger Partnership ("Opposer" or "Whataburger").

GENERAL OBJECTIONS

The following General Objections apply to all of Applicant's Responses to Opposer's First Set of Interrogatories.

1. Applicant objects to the Instructions and Definitions set forth in Opposer's First Set of Interrogatories to the extent that they purport to impose any obligation on Applicant beyond those imposed by the Federal Rules of Civil Procedure or the Rules of the Trademark Trial and Appeal Board.

2. Applicant objects to Opposer's First Set of Interrogatories as overly broad to the extent that they are unbounded by any time frame and/or encompass time frames not relevant to the conduct and events that are at issue in this lawsuit.

INTERROGATORY NO. 7: Describe with particularity any instance known to You in which any member of the public:

(a) suggested a belief that any present or future product or service offered in connection with Applicant's Mark was associated with Opposer to Opposer's Marks;

(b) suggested a belief that any present or future product or service offered in connection with Opposer's Marks was associated with Applicant or Applicant's mark; or

(c) inquired regarding the relationship between Applicant and Opposer. Your response should include identification of all Persons with knowledge of such instance(s).

RESPONSE: Applicant objects to this interrogatory as vague, ambiguous, overly broad and unduly burdensome. Subject to and without waiving the foregoing specific and General Objections, Applicant states that it is not aware of any instances listed in Interrogatory No. 7.

[redacted]

Respectfully submitted,

SARKIS AVAKIAN

By his Attorneys,

Dated: August 28, 2009

/s/ Sheryl Koval Garko
Mark S. Puzella
Robert M. O'Connell, Jr.
Chelsea Teachout
Sheryl Koval Garko
GOODWIN PROCTER LLP
Exchange Place
53 State Street
Boston, MA 02109-2881
Tel: 617/570-1000
Fax: 617/523-1231

CERTIFICATE OF SERVICE

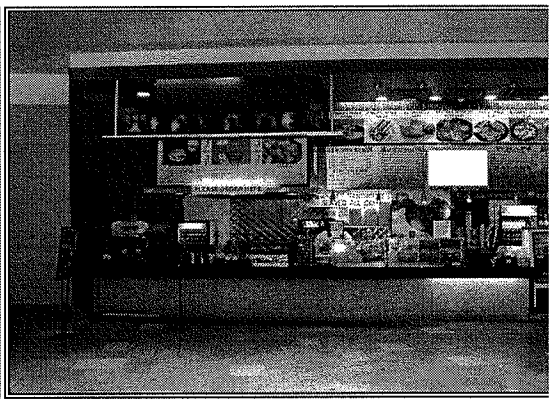
I hereby certify that I served a copy of the foregoing APPLICANT'S OBJECTIONS AND RESPONSES TO OPPOSER'S FIRST SET OF INTERROGATORIES upon Opposer's counsel of record by depositing one copy thereof in a sealed envelope in the United States mail, first-class, postage prepaid, on August 28, 2009, addressed as follows:

Christopher Kelly
Wiley Rein LLP
1776 K Street NW
Washington, DC 20006

/s/ Sheryl Koval Garko
Sheryl Koval Garko

Exhibit F1

WHAT A DELI



1201 Boston Post Rd. Milford CT
in the Connecticut Post Mall (Food court)
TEL. 203 878-7311

Store hrs.mon-sat 8:30am-9:00pm
sun 10:00am-6:00pm

What A Deli! First opened in August 2005 and has become a staple at the Westfield CT Post Mall. We are known for our unique menu, reasonable prices and ex service.

Our delicious overstuffed sandwiches and fried favorites are not the only reason we've become so popular.
We are also the only restaurant in the mall that is open early enough to serve breakfast to both, mall shoppers and mall employees.
We serve breakfast early and all day at any time. Our famous PHILLY STEAK AND PANINI are number one selling in Westfield CT Post Mall.
Also don't forget about our NY style falafel sandwich.
We will have one of our famous sandwiches and hot cup of coffee waiting for YOU!

WHAT A DELI ©

BREAKFAST SERVED ALL DAY

SPECIAL # 1.....$3.29

Egg w/bacon,sausage or ham & cheese on a hard roll served w/12oz coffee.

Fried egg on a hard roll.....$1.59
W/ cheese.....$1.79
W/sausage,bacon or ham.....$2.39
W/sausage,bacon or ham & cheese.....$2.59

Bagel with cream cheese $2.09
Bagel with butter.....$1.39
Muffin with butter.....$1.39

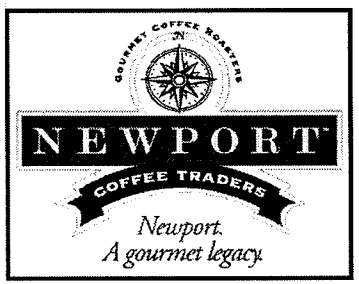
SPECIAL #2 .....$2.99

Bagel w/ cream cheese & a 12oz coffee

Western sandwich....$2.69 w/cheese.....$2.89
2 Egg scrambled,ham,pepper & onion on a hard roll
Burrito.....$3.29
2 Egg scrambled,ham,pepper jack cheese & mild salsa on wrap
Protein blast.....$3.29
2 Egg whites,turkey,cheese & tomato on your choice of bread

SIDES

HOME FRIES.....$2.99
FRENCH FRIES.....$2.99
Cheese fries.....$3.99



DRINKS

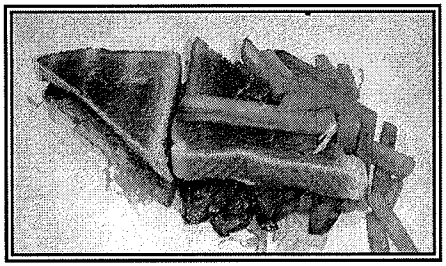
Large soda $1.89
Medium soda.....$1.69
Bottled water.....$1.29
Snapple or juice.....$1.79

WHAT A DELI ©

DELUXE SANDWICHES

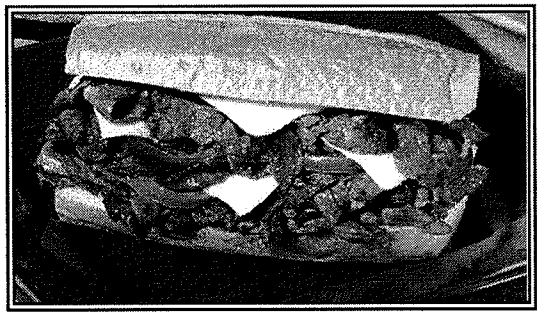
Served w/french fries or an apple

Freshly sliced Boar's Head piled high on your choice of bread,roll or wrap Toppings are FREE! cheese 40¢ extra Grinders 40¢ extra.



Deluxe roast beef.....$5.39
Oven gold turkey.....$5.39
Deluxe ham.....$5.39
Hot corned beef.....$5.39
Pastrami.....$5.39
Genoa salami.....$5.39

Pepperoni.....$5.39
Tuna salad.....$5.29
Chicken salad.....$5.29
BLT.....$4.99
Grilled cheese.....$3.99
W/bacon or ham.....$5.29



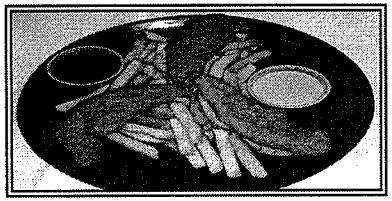
GRINDERS (8)

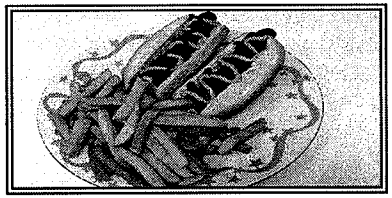
Served w/FF or an apple

Philly steak Fresh shaved steak w/american cheese,sauteed peppers & onions.....$5.99
Philly chicken Fresh shaved chicken w/american cheese,sauteed peppers & onions..... $5.99
Italian combo Ham,salami,pepperoni,provolone cheese,lettuce,tomato,onion,oil & vinegar..... $5.99
American combo Roast beef,turkey,ham,american cheese,lettuce,tomato & mayo..... $5.99

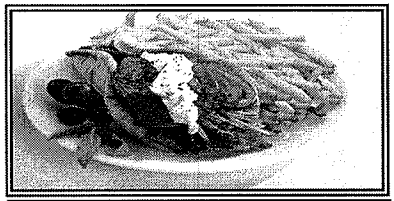
DELI SPECIALTIES

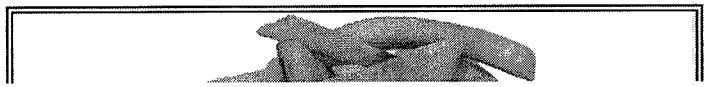
Served w/FF or an apple





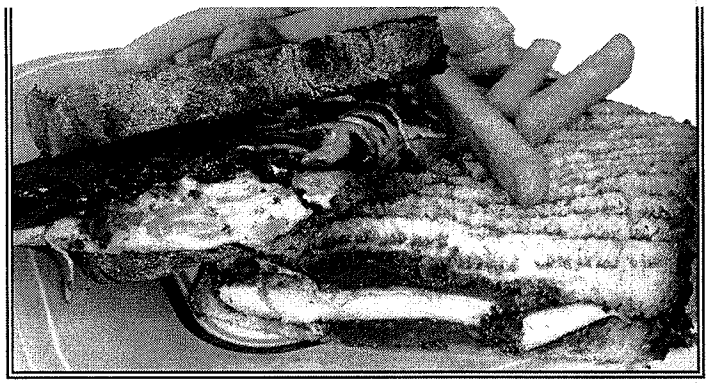
Tuna melt-Tuna salad w/american cheese and tomato on grilled rye bread.....$5.59
Ruben-Corned beef or pastrami on grilled rye w/melted swiss ,sauerkraut & russian dressing.....$5.59
Buffalo grilled chicken-On a hard roll w/lettuce,tomato,blue cheese & buffalo sauce.....$5.59
Gyro-Strips of beef w/lettuce,tomato,onion,feta cheese & cucumber garlic sauce on pita bread.....$5.59
Chicken souvlaki-On pita breadw/tomatoonion,pepper,feta cheese & cucumber garlic sauce.....$5.59
Chicken tenders served with your choice of honey mustard or BBQ sauce & frech fries.....$5.59
Beer butter crispy fish platter served w/coleslaw,tartar sauce,lemon and fries.....$5.99
2 hot dos served with french fries.....$5.45





OUR SIGNATURE HOT PANINI $5.99

Served w/FF or an apple



American panini
Oven gold turkey,bacon,swiss cheese,lettuce.tomato & sun dried tomato mayo

Mediterranean panini
Fresh grilled chicken,mozzarella cheese,roasted red peppers & pesto sauce

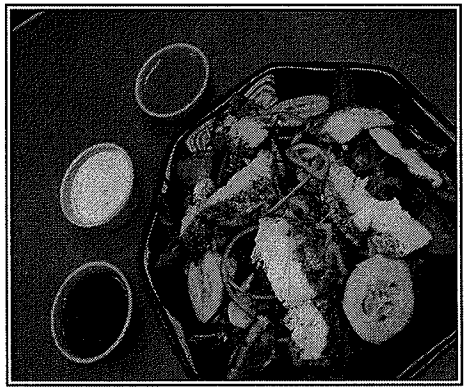
Mexican panini
Freshly shaved steak,lettuce,jalapeno jack cheese,tomato & chipotle sauce

Italiano panini
Ham,salami,pepperoni,provolone cheese,lettuce,tomato,red onion & pesto sauce

Chicken cordon bleu panini
breaded chicken,ham,swiss cheese,lettuce served w/side ranch dressing or honey mustard

SALADS

All dressing served on the side



Green salad.....$4.79
Fresh crispymixed lattuce,tomato,cucumber,red onions & your choice of dressing

Autumn grilled chicken salad.....$5.99
Our mix green salad topped w/grilled chicken,cinnamon apple,walnuts & raisins,light ranch dressig

Outrageous turkey salad.....$5.79
Our mixed green salad topped with oven gold turkey,bacon,croutons & cheese, parmesan peppercorn dressing

What a deli salad.....$5.79
Our mixed green salad topped with tuna or chicken salad,croutons & low fat italian dressing

WRAPS

Served w/FF or an apple

BUFFALO CHICKEN WRAP.....$5.59
Grilled chicken breast,lettuce,tomato,blue cheese & buffalo sauce wrap it on white or wheat wrap

ITALIAN WRAP.....$5.59
Grilled chicken breast,roasted red pepper & mozzarella cheese wrap it on white or wheat wrap

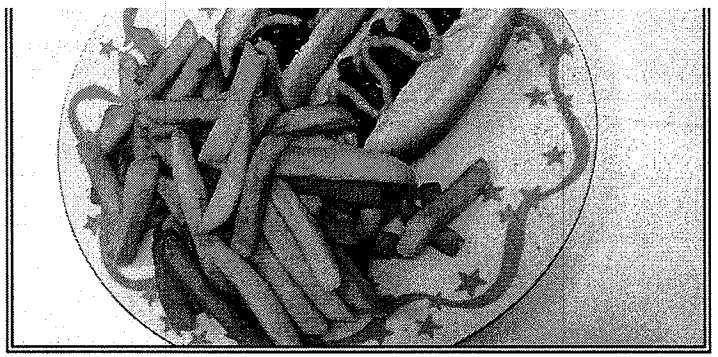
AMERICAN WRAP.....$5.59
Oven gold turkey,lettuce,tomato,red onion,swiss cheese & mayo wrap it on white or wheat wrap

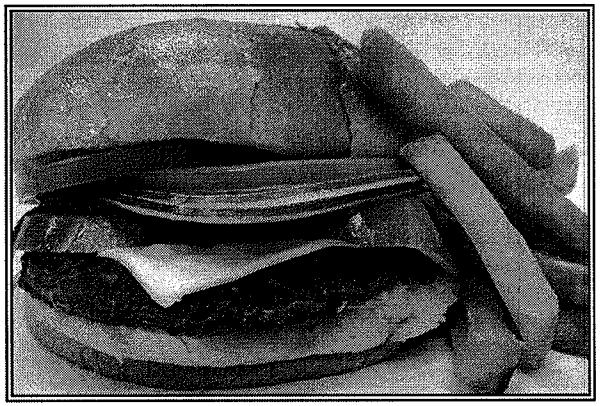
FALAFEL WRAP.....$5.59
Ground fava beans, chick peas, fresh herbs & spices served w/lettuce,tomato,onions & tahini sauce (spicy upon request) rolled up tight on a wrap

Plain dog ..... **$2.25** **$3.99**
American dog .....**$2.35**.....**$4.10**
Red onions, mustard, relish, ketchup
Chili dog .....**$2.85**.....**$4.99**
Chili and melted cheddar and chopped onions

Slaw Dog .....$2.49.....$4.10
Cole Slaw, Mustard and Pickle
Philly Dog .....$2.49.....$4.10
Cheese, Grilled Peppers & Onions
Boston Dog .....$2.35.....$4.10
Spicy Mustard & Sauerkraut
Chicago Dog .....$2.49.....$4.10
Relish, onions, lettuce, tomato & pickle
New York dog .....$2.35.....$4.10
Dog with mustard, onions and sauerkraut

ADD FRIES TO ANY DOG FOR ONLY $1.35





Classic Burger w/fries $5.49
Hamburger with ketchup, mustard and pickles
Cheeseburger w/fries.....$5.99
Hamburger with tomatoes, onions, pickle, Mayo, American cheese
Hickory Burger w/fries $6.49
Beef patty covered with cheddar cheese, bacon and hickory barbeque sauce
Cowboy Burger w/fries $6.49
Grilled mushrooms, onion, bacon and Monterey Jack cheese on beef patty
Chili Burger w/fries..... $6.49
Hearty beef burger hidden beneath your favorite chili and cheddar cheese
Bleu Cheese Burger w/fries.....$6.49
Crumbled Bleu cheese and bacon covering a grilled hamburger

Consuming raw or undercooked meats,poultry,seafood or eggs may increase your risk of food illness

WHAT A DELI
©

For Any Occasion
Crowd Delicious Platters,Salad and Giant Subs. For all of your get togethers!

DELUXE WRAP SANDWICHES. # 1 CATERING CHOICE

Each wrap is 12 inches Assorted wraps (cold and hot)

10 assorted wraps (serves 10-14 guests).....$53.00
20 assorted wraps (serves 20-25 guests).....$100.00
30 assorted wraps (serves 30-36 guests.....$145.00
40 assorted wraps (serves 40-48 guests).....$188.00
Add French Fries .....Half Tray $10.00 .....Full Tray $18.00

Giant subs

$14.95 / foot Each foot serves 4-5 guests

Our giant sub sandwiches are available in 3, 4 and 5 foot lengths Frech bread stacked high with delicious meat and cheese

AMERICAN HERO- Ham, roast beef, turkey,cheese,lettuce,tomato,olives,pickes,onios and green peppers
ITALIAN HERO- Salami, pepperoni,ham,provolone cheese,lettuce,tomato,olives,pickles,onios and green peppers.

SALAD PLATTERS

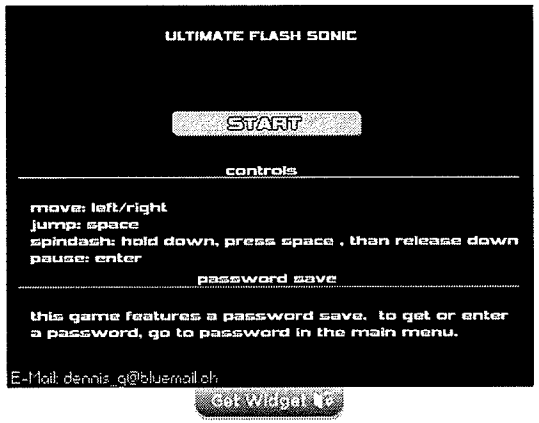
	Half Tray (serves 8-10)	Full Tray (serves 15-20)
Mixed garden salad with choice of dressing	$20.00	
Chef Salad-Mixed garden salad with ham, roast beef, turkey, boiled eggs, american & swiss cheese	$35.00	$55.00
Ceasar salad- with marinated grilled chicken	$30.00	$50.00
Autumn grilled chicken salad-Our mixed garden salad topped with grilled chicken ,cinnamon apple, walnuts and raisins, served with a side of ranch dressing	$30.00	
Potato salad,Macaroni salad or cole slaw	$20.00	

COLD APPETIZERS

Assorted fresh veggie platter w/dipping.....$25.00
Pasta and broccoli salad mixed with greek dressing
(feta cheese,olive oil & garlic).....$25.00

$45.00
Meat platter-Roast beef,salami,ham,turkey,cheese cubes w/crackes.....$30.00
$55.00
Assorted cheese platter-3 to 5 different types of cheese cubes w/crackes.....$30.00
$55.00

WHAT A DELI ©



KID'S MENU

Every meal includes kid size fries, small soda & a cookie

Grilled cheese $4.99
Chicken nuggets.....$4.99
Hot dog $4.99

Exhibit F2

What About A Bagel Cafe and Catering
Cobblestone Village in Ocean NJ
732-493-3050

What About A Bagel Cafe

Content copyright 2009-2011. What About a Bagel Cafe. All rights reserved.

What About A Bagel Cafe, located at 885 West Park Avenue in the Cobblestone Village Shopping Center, serves fresh baked bagels, wraps and other foods that are health conscious and delicious.

At *What About A Bagel Cafe*, our bagels, flagels and other menu items are baked daily, and we feature fresh brewed coffee all day.

What About A Bagel Cafe is Ocean Township's favorite spot for breakfast and lunch, with fast service and reasonable prices.

Call ahead at 732-493-3050 for fast pickup service.

Try our daily specials!

We do catering! Call for 732-493-3050 for details.

Only the freshest ingredients!

Go to our MENU page now, or CLICK HERE to download our menu!

What About a Bagel Cafe
885 West Park Avenue
In the Cobblestone Village Shopping Center
732-493-3050
Open Monday-Friday 6am -230pm
Saturday and Sunday 7am-2pm

Built By Small Biz Ez Web

15. **grilled veggie wrap**
Grilled zucchini, squash, peppers, portabella mushrooms & onion, drizzled with our house vinaigrette 6.50
w/grilled chicken 7.50

16. **honey mustard grilled chicken wrap**
Grilled chicken breast, cucumber, lettuce, tomato & low cal honey mustard 6.75

17. **bbq chicken wrap**
barbequed chicken breast with melted Swiss cheese 6.50

18. **european wrap**
Strips of seasoned grilled chicken breast, roasted peppers, fresh mozzarella cheese, lettuce salad, drizzled with our house vinaigrette 6.95

19. **garden state wrap**
Sprouts, avocado, cucumber, tomato, spring mix, vegetarian cream cheese 6.75

20. **la griglia wrap**
Grilled chicken, roasted red peppers, portabella mushrooms, pesto 6.95

21. **waldorf wrap**
Grilled chicken, walnuts, cranberries, granny smith apples, and our special seasoning 7.25

22. **tijuana express wrap**
Baja-chicken, grilled onions, avocado, tomato, romaine, cajun mayonnaise 6.95

quesadillas

inside your choice of a plain, spinach or sundried tomato flour tortilla.

grilled veggie quesadilla
Grilled portabella mushroom, onion, zucchini, squash, roasted peppers and red & green peppers with melted Jack & Cheddar cheeses 6.75
w/grilled chicken 7.75

grilled turkey & portabella mushroom quesadilla
with onions and melted Swiss cheese 7.50

grilled teriyaki chicken
with grilled onion and mozzarella cheese 7.50

the quesadilla - "your way" (all come with your choice of melted cheese)
w/grilled chicken or any deli meat 7.50

what about some french fries 2.50

classic sandwiches

served w/macaroni salad & a pickle

corned beef	6.75	low cal chicken salad	6.00
pastrami	6.75	white fish salad	5.75
roast turkey	6.50	egg salad	5.50
roast beef	6.75	cheese	5.50
ham	6.50	grilled cheese	3.95
albacore tuna salad	5.50		

the bagel club
Any of our delicious Boar's Head deli meats served with crisp bacon, lettuce, tomato & mayo 7.50

the yellow ribbon
Lean corned beef & pastrami topped with coleslaw and russian dressing 7.50

Add cheese .75

Beverages

gourmet coffee bar

	12oz. short	16 oz. tall	20 oz. grande
gourmet roasted/flavored coffee	1.19	1.39	1.59
tea (regular-decaf-herbal)	1.19	1.39	1.59
hot chocolate	1.19	1.39	1.59
hot chai	2.25	2.95	3.55

We also carry a wide variety of soft drinks, spring water, juices and milk.

Dessert

crumb cake	1.75
fresh homemade muffins	1.75
fresh homemade cookies	1.50

Prices Are Subject To Change

Open For Breakfast & Lunch

We offer Catering for all occasions!

Ask about our bagel, deli, salad & wrap platters!

*Home of the **Original** Flagel!*

Order right from our website at
www.whataboutabagelnj.com

Call 732.493.3050

Fax 732.493.3070

885 West Park Avenue, Ocean, NJ 07712
Cobblestone Village

Breakfast served all day

bagels cinnamon raisin, egg, everything, garlic, onion, plain, poppy, pumpernickel, rye, salt, sesame, whole wheat & honey

bagels, flagels & schmears

fresh individual bagel	.80 ea.
flagel	1.00
half dozen bagels	4.40
whatabouta dozen (13)	8.35
bagel with butter/margarine	1.54
bagel with jelly	1.54
bagel with peanut butter	1.64
add jelly	.50

cream cheeses	on a bagel	8oz tub to go
plain	1.80	2.99
lite plain	2.00	2.99
veggie	2.00	3.50
lite veggie	2.00	3.50
scallion	2.00	3.50
honey walnut raisin	2.00	3.50
lox spread	2.70	3.95

breakfast sandwiches served on your choice of bagel.

scrambled egg	2.25
egg & cheese	2.75
scrambled egg, bacon, sausage or taylor ham	3.45
scrambled egg, bacon, sausage or taylor ham & cheese	3.95
cream cheese & bacon	2.25
bacon, sausage or taylor ham	2.85
bacon, lettuce & tomato	4.75
cream cheese, nova lox, onion & tomato	7.25
additional egg	.65

breakfast platters served with your choice of bagel.

2 eggs (any style) with homefries	4.25
2 eggs (any style) with homefries, and either bacon, sausage or taylor ham	5.50

omelettes

made with 3 eggs & served with homefries and your choice of bagel

plain	3.95
cheese (American, Swiss, muenster, or mozzarella)	4.50
Western: ham, green peppers, & onion	5.75
veggie: red & green peppers, mushroom & onion	5.50
lox & onion	6.95
potato, onion, mushroom & cheese	5.75

a.m. wraps

made with 2 eggs on your choice of a plain, spinach or sundried tomato flour tortilla.
add cheese to any wrap: 50¢, egg whites . . . 50¢ each

egg wrap	2.75
egg & cheese wrap	2.95
potato, egg & cheese wrap	3.95
western wrap: eggs, ham, peppers & onion	4.50
salmon wrap: eggs, nova lox & onion	6.95
egg & bacon, porkroll or sausage wrap	3.95
add cheese	.75

breakfast quesadillas

eggs, cheddar jack cheese, choice of: bacon, sausage, pork roll, with your choice of tortilla 5.50

western quesadilla

eggs, cheddar jack cheese, ham, onion, peppers, with your choice of tortilla 5.95

Lunch

soup of the day

bowl 3.30

sumptuous salads

choose one of our delicious dressings
creamy italian • lite italian • homemade low fat honey mustard • caesar peppercorn ranch • fat free raspberry vinaigrette • house vinaigrette • thousand island • bleu cheese

caesar salad
Romaine lettuce, tossed with homemade croutons, parmesan cheese & caesar dressing 5.95
w/chicken 6.95

cafe grande
Mixed greens & cabbage, red onion, artichoke hearts, feta cheese, cured olives and tomato, house balsamic 7.25

chef's salad
Romaine with tomato, hard boiled eggs, ham, turkey, roast beef, Swiss cheese, red & green peppers & carrots 7.50

classic garden salad
Fresh romaine, green leaf lettuce, red & green peppers, tomatoes, cucumbers & shredded carrots 5.25
w/chicken 6.95
w/scoop of chicken, tuna, white fish or egg salad 6.95

european salad
Strips of seasoned grilled chicken breast, roasted peppers & fresh mozzarella cheese served over mixed greens 7.25
add bacon .75

flamingo
Mixed greens, crumbled bleu cheese, walnuts, mandarine oranges, raspberry vinaigrette 6.95

mexican fajita salad
Strips of seasoned chicken breast over mixed greens, red & green peppers, shredded jack & mozzarella cheese, accompanied by salsa in a tortilla bowl 7.25

hot panini sandwiches

All sandwiches grilled to perfection on panini bread. All paninis served with macaroni salad and pickle.

1. **tuscan panini**
   Grilled chicken, fresh mozzarella, roasted peppers, pesto spread 7.75
2. **my name is "ruben panini"**
   Hot pastrami, swiss cheese, sauerkraut, russian dressing 7.75
3. **you got a beef with me? panini**
   Roast beef, cheddar cheese, bacon, lettuce, tomatoes, horseradish mayo 7.75
4. **ocean tuna melt panini**
   Homemade tuna salad, american cheese, tomatoes, mayo 7.75
5. **the great american cheeseburger panini**
   ½ lb. of 100% lean ground beef smothered with american cheese, topped with red onion, tomato, lettuce, ketchup 7.75
6. **monte cristo panini**
   Grilled ham, turkey, swiss, bacon, honey mustard 7.75
7. **caprese**
   Ripe tomatoes, fresh mozzarella, pesto spread 7.75
8. **wild, wild west panini**
   Buffalo chicken, monterey jack cheese, celery, hot wing sauce and bleu cheese 7.75
9. **very veggie panini**
   Grilled zucchini, spinach, peppers, portabello mushrooms, onions, provolone cheese drizzled with balsamic vinaigrette 7.75

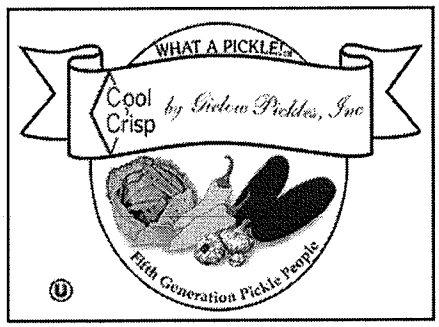
whatabouta "wrap"

on your choice of plain, spinach, sundried tomato or w/w flour tortilla.
served w/macaroni salad and a pickle

10. **sloppy joe wrap**
    Turkey, roast beef, corned beef, Russian dressing & coleslaw 7.25
11. **smokey joe wrap**
    Fresh nova lox, whitefish salad, lettuce and cucumber 7.95
12. **blt wrap**
    Crisp bacon, lettuce, tomato, topped with mayo 5.25
13. **chicken caesar salad wrap**
    Our freshly made chicken caesar salad in a wrap 6.50
14. **California wrap**
    Oven roasted turkey, avocado, sprouts, lettuce & tomato with homemade low cal honey mustard 6.95

Turn Page for More Wraps

Exhibit F3



- Home
- The Company
- The Products»
- Brokers»
- Contact Us

The Company

We've been making pickles for five generations Making pickles is in our blood. When our family began making pickles in the early 1900's, our goal was to make the highest quality pickle at a competitive price. Today, our goal remains the same. The use of automated packaging equipment, direct contact with growers across America, and the buying power of the market leaders enables...
read more

The Company
We've been making pickles for five generations Making pickles is in our...

Product Gallery
[View with PicLens]

Refrigerated Products
Whatever the scenario, we have a refrigerated pickle to match.

Shelf Stable Products
Your customers will love the zesty taste of Cool Crisp pickles and pepper products.
Whatever the scenario, we have a pickle to match!

What a Pickle!
The Products

Gielow Pickles offers lines of Refrigerated and Shelf Stable products to meet your foodservice needs.

Refrigerated Products
Shelf Stable Products

read more
The Company

We've been making pickles for five generations

Making pickles is in our blood. When our family began making pickles in the early 1900's, our goal was to make the highest quality pickle at a competitive price. Today, our goal remains the same. The use of automated packaging equipment, direct contact with growers across America, and the buying power of the market leaders enables Gielow Pickles to accomplish our goal.

We look forward to being your pickle, pepper, sauerkraut, and relish partner.

Our History

Gielow Pickles has been the packer of Cool Crisp™ refrigerated dill pickles since 1970. The Gielow family has been making pickles for five generations and were the original founders of Aunt Janes Pickles in the early 1900s. Their commitment to making a quality product at a competitive price has been their cornerstone of success. Today, Gielow Pickles is one of the leaders in the manufacturing of refrigerated pickles for the food service industry.

It's all about the cucumber!

At Gielow Pickles quality starts with the cucumber. We work with only the finest growers in the best cucumber growing regions. All of our growers use the same seed variety to ensure a uniform size and quality cucumber. Our advanced produce handling techniques and express trucking ensues that we are using only the freshest cucumbers.

read more
Brokers

Cool Crisp Spec Sheets

Brokers: To access the Cool Crisp Spec Sheets, you must have the password. To request the password, click here.

Cool Crisp Refrigerated Products

Cool Crisp Shelf Stable Products

Allergen Statement

Gielow Pickles, Inc. products do not contain any common allergies.

2010 Allergen Statement

Kosher Certification

Kosher Statements

read more

©2010 Gielow Pickles, Inc.

Contact Webmaster

Designed by Elegant Themes | Powered by Wordpress

Exhibit F4

Whaddapita!™ Greek & Mediterranean Restaurant

408 Forest Avenue | Portland, Maine 04101

207.773.8111

for delivery

www.whaddapita.com

March 3, 2011

home

menu

catering

about us

reviews

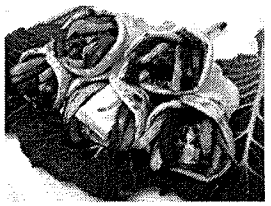
contact us

© Whaddapita!™ 2011

Whaddapita!™ welcomes you to FRESHNESS!

Homemade goodness. Made fresh to order. Classic Greek food, with a contemporary twist. That's the Whaddapita!™ way. Our recipes have been tested in kitchens around the world, – not by "iron chefs" – but by the greatest home cooks ever: OUR GRANDMAS!

So when you want a delicious meal right here in Portland, Maine with the freshest taste, using only healthy, natural ingredients, plus happy memories of HOME, the only choice is WHADDAPITA!™



Now stay warm, dry & well-fed.

DELIVERY is HERE.

$2 delivery fee + $10 minimum order.

Whaddapita!™ Greek & Mediterranean Restaurant

408 Forest Avenue | Portland, Maine 04101

207.773.8111

for delivery

www.whaddapita.com

March 3, 2011

home

menu

catering

about us

reviews

contact us

© Whaddapita!™ 2011

WHADDAPITA™ MENU

Now the PitaMan comes to YOU! DELIVERY SERVICE is here. $2 delivery and $10 minimum apply.
For your convenience, we also offer "**curbside delivery**". When you can't get out of your vehicle we will bring your order to your car.

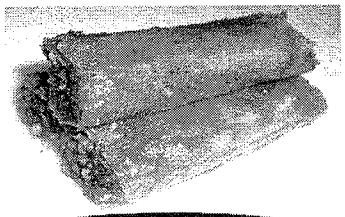
SIDE DISHES:

1. **Feta Cheese: $5.99** Imported barrel-aged authentic feta cheese drizzled with virgin olive oil, Greek oregano & fresh black pepper.
2. **Dolmades: $3.99** Chilled morsels of grape vine leaves filled with a tasty seasoned rice, served with a lemon vinaigrette.
3. **Pita bread: $0.79** Lightly-seasoned pita brushed with olive oil & grilled.
4. **Homemade Fries:** Reg. **$3.99**, Large, **$5.29** Grandma's homemade fresh cut potatoes, fried in non-trans fat oil & seasoned to perfection. Served with choice of: tzatziki, pita sauce, fiery sauce or blue cheese sauce.
5. **Zucchini Fritters: $5.59** Fresh zucchini balanced with the right combination of fresh herbs, citrus, imported feta cheese & fried to perfection. Served with choice of: tzatziki, pita sauce, blue cheese sauce or fiery sauce.
6. **Falafel: $4.99** Fried chick pea fritters served with your choice of tzatziki, pita sauce, blue cheese sauce or fiery sauce.

PITA PERKS:

Served with grilled pita bread. $5.59 each

1. **Eggplant Dip:** Roasted eggplant, garlic, peppers & scallions, with feta cheese, fresh herbs & olive oil.
2. **Zesty Feta Dip:** Creamy, zesty feta cheese dip with a zing!
3. **Tzatziki:** Cool Greek yogurt dip blended with garlic, cucumber, dill & fresh herbs.
4. **Hummus:** Roasted chick peas, marinated & pureed with roasted peppers & herbs making a delicious, creamy dip.



DESSERTS & SMOOTHIES:

1. **Baklava: $2.79**
   Delicate layers of our hand-rolled phyllo dough, filled with chopped walnuts laced in a cinnamon honey syrup.
2. **Cheesecake: $4.59** Homemade, rich & creamy.
   $4.89 with homemade Preserve topping.
3. **Smoothies: $4.39**
   Banana, Strawberry, Banana-Strawberry, Lemonade or Raspberry-Lemonade
4. **Nonfat Yogurt Smoothie: $4.99**
   Banana, Strawberry
5. **Frozen Cappuccino: $4.99**
   Add $0.50 for: Irish Cream, Caramel or Hazelnut Flavoring

GREEK YOGURT:

$5.79 Superior to any other. Especially creamy, rich, thick & pleasing to the taste. With your choice of:
HONEY & GRANOLA **OR** one homemade PRESERVE TOPPING:
Carrot, Quince, Grape, Strawberry, Orange, Cherry available in season. Ask about today's homemade Preserve selection.

DRINKS:

1. **Fountain Sodas:** Regular **$1.69**, or Large **$1.99**
2. **Bottled Sodas: $1.89**
3. **Bottled Water: $1.59**

Ask for additional selections.

BEER & WINE:

House Red or House White: **$4.50**
Mythos (Imported from Greece) or Heineken, **$4.50**
Bud, Bud Light, **$3.50**

COFFEE & TEA:

Regular or Decaf Coffee or Tea: Regular **$1.75**, or Large **$2.25**
Add $0.50 for: Irish Cream, Caramel or Hazelnut Flavoring

VEGETARIAN PITA SANDWICHES:
$4.39 each or 2 same for $8.29

Wrapped in a warm pita bread.

CLASSIC PITA SANDWICHES:
$4.39 each or 2 same for $8.29

Wrapped in a warm pita bread.

EXTRAS!! ADD to ANY PITA SANDWICH for just:
$0.49 EACH: Jalapeño - Green Pepper - Cucumber - Romaine lettuce
$0.79 EACH: Zesty Feta Dip - Eggplant Dip - Hummus | **$1.29:** Imported barrel-aged feta cheese

1. **Feta:** Imported barrel-aged feta cheese, homemade fries, tomatoes, red onions & tzatziki sauce.
2. **Zucchini:** Zucchini fritters, homemade fries, tomatoes, red onions and topped with our own pita sauce.
3. **Eggplant:** Eggplant dip, homemade fries, zesty feta, tomatoes & red onions finished with our tangy vinaigrette.
4. **Dolmades:** Chilled morsels of grape vine leaves filled with tasty seasoned rice, homemade fries, tomatoes, red onions & tzatziki.
5. **Hummus:** Hummus dip, homemade fries, tomatoes, red onions & a tangy vinaigrette.
6. **Falafel:** Fried chick pea fritters, homemade fries, tomatoes, red onions, tzatziki and lemon vinaigrette.

1. **GYRO PITA: Chicken or Pork**
   Our gyros are made Old World style, with layers of select meat, fresh herbs, dry rubbed spices & marinated to perfection. Prepared traditionally by slicing slivers of slowly roasting meat from a vertical rotating grill. Wrapped with a combination of homemade fries, tomatoes, red onions, finished with a cool garlic, yogurt, cucumber & dill sauce (tzatziki). Chicken Gyro served with pita sauce.
2. **SOUVLAKI PITA: Chicken or Pork**
   Tender pieces of meat marinated in Grandma's secret combination of fresh herbs, spices & citrus. These tasty kebabs are grilled & served wrapped with a combination of homemade fries, tomatoes, red onions, finished with a cool garlic, yogurt, cucumber & dill sauce (tzatziki). Chicken Souvlaki served with pita sauce.
3. **BEEFTAKI PITA: Prime Ground Beef**
   Fresh prime ground beef seasoned with garlic, red onions, herbs, Mediterranean spices & grilled to perfection, served wrapped with homemade fries, tomatoes, red onions & tzatziki.

SINGLE SKEWERED STICKS:

$1.69 each. Char-grilled to perfection.
Your choice of:
Chicken Souvlaki, Pork Souvlaki or Beeftaki.

PLATTERS:

1. **Dip Platter:** Hummus, Tzatziki, Eggplant or Zesty Feta Dip. Served with grilled pita bread, tomatoes and red onions. Choice of any 2: **$8.99** or any 3: **$11.99**
2. **Zucchini Fritter Platter: $8.99** Zucchini fritters with pita sauce, homemade fries, tomatoes, red onions & grilled pita bread.
3. **Dolmades Platter: $8.99** Chilled grape leaves stuffed with herbed rice; imported barrel-aged feta cheese, Greek Kalamata olives*, tzatziki & grilled pita bread. ***CAUTION: Our olives contain pits!**
4. **Pork Souvlaki Platter: $8.99** Two pork souvlaki sticks, homemade fries, red onions, tomatoes, tzatziki & grilled pita bread.
5. **Chicken Souvlaki Platter: $8.99** Two chicken souvlaki sticks, homemade fries, pita sauce, red onions, tomatoes & grilled pita bread.
6. **Pork Gyro Platter: $8.99** Pork gyro, homemade fries, tzatziki, red onions, tomatoes & grilled pita bread.
7. **Chicken Gyro Platter: $8.99** Chicken gyro, homemade fries, pita sauce, red onions, tomatoes & grilled pita bread.
8. **Beeftaki Platter: $8.99** Two grilled, seasoned beef patties, homemade fries, red onions, tomatoes, tzatziki & grilled pita bread.
9. **Falafel Platter: $8.99** Fried chick pea fritters, homemade fries, tomatoes, red onions, tzatziki & grilled pita bread.

"COMBO PLATTERS"
Choose 2 for $11.99 or 3 for $14.99
Chicken Souvlaki * Pork Souvlaki * Chicken Gyro * Pork Gyro * Beeftaki * Zucchini Fritters* Falafel

ALL COMBO PLATTERS are served with: our homemade fries, tomatoes, red onions, pita bread & your choice of: tzatziki, pita sauce, blue cheese sauce or fiery sauce.

SOUP of the DAY:
Ask for today's selection & price.

Available in winter only.

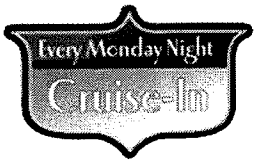
the FRESHEST SALADS:

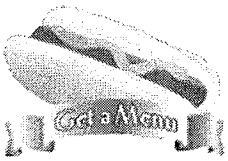
1. **Ultimate Greek Village Salad: $8.99**
   Our signature salad, made with exceptional ingredients. Kirby cucumbers, hearts of Romaine lettuce, red onions, green pepper, vine-ripe tomatoes, imported Kalamata olives*, imported barrel-aged feta, dolmades & pepperoncini, tossed in our tangy Greek vinaigrette.
   ***CAUTION: Our olives contain pits!**
2. **Garden Salad: $5.99**
   Classic Romaine lettuce, tomatoes, cucumbers, green peppers & red onions with your choice of dressing: Blue Cheese, Roasted Garlic Parmesan or Tangy Vinaigrette.

Add to Any Salad: $3 each:
Chicken or Pork Gyro * Chicken or Pork Souvlaki * Beeftaki * Zucchini Fritters * Falafel

WHADDAPITA!™ SAUCES add a touch of WOW!
TZATZIKI: Cucumber, yogurt & garlic
PITA SAUCE: Yogurt & mustard
FIERY SAUCE: Yogurt, Jalapeño & Habanero Peppers
2 oz. SIDE ORDER: $0.99 each

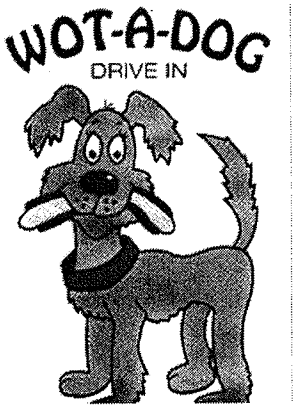
Exhibit F5





Download a Coupon

Get It! Print it!



When you visit the Wot-a-Dog it's like taking a step back in time. We are one of the few true "drive in" restaurants around. Car hops still walk up to your car to take your order and then bring your food out to you on a metal car tray. For those who prefer not to eat in their car we suggest dining on our covered patio area. We don't know how the original owners came up with the name for the restaurant, but once you eat one of our famous coney dogs you can't help but say "Wot-a-dog".

We offer shakes, malts and floats, foot long hot dogs, coneys and hamburgers. Our signature sandwiches are the Wot-a-Burger (1/2 lb burger), the Rebel-Burger (sausage and beef patties served on a double bun w/Rebel Sauce), and our coney dogs (we make our own coney sauce!). Don't forget about our own homemade draft root beer – its best when served in one of our frosted mugs.

Remember – since we are a seasonal restaurant open from *late March through the end of September*, it's best to call to be sure we're open - **937-845-FOOD (3663).**

We Accept...

Home Cruise-In's Get a Menu Directions Contact Us Apparel

Wot-A-Dog Drive In

603 S. Main Street New Carlisle OH

A Taste You Can't Get Anywhere Else!

All Time Favorites

Short Coney *w/coney sauce*	1.97
Foot Long Coney *w/coney sauce*	3.02
Plain Hot Dog *(short dog)*	1.44
Plain Foot Long	2.38
Jalapeno Dog *coney sauce & jalapeno's*	2.32
Kraut Dog *short hot dog & sauerkraut*	1.79
Corn Dogs	1.86

Bratwurst 2.33 **Bratwurst with/kraut** 2.68

"everything" on dogs means mustard, ketchup, onions, & relish

Regular Hamburger	1.66
¼ Lb. Hamburger	2.38
Regular Cheeseburger	1.97
¼ Lb. Cheeseburger	2.62
Double Cheeseburger	2.96

"the works" mayo, mustard, ketchup, pickles, onion, lettuce (Tomato .20extra)

Specialty Sandwiches

Wot-A-Burger 4.34
½ lb. burger, cheese, ketchup, mustard, mayo, pickles, lettuce, onion, & tomato

Rebel Burger 3.35
hamburger & sausage patties w/Rebel Sauce, tomato slice, & American cheese

Bacon Cheddar Cheese Burger 3.35
¼ lb. burger w/cheddar cheese & bacon

Pizza Steak	2.99
Char Broiled Chicken (boneless-skinless)	3.90
Pork Tenderloin	2.91
Texas Tenderloin	4.34

Make Any Sandwich A Basket

Includes smaller order fries & cole slaw $2.30

Extra Toppings

Cheese, Kraut, Slaw, Jalapeno's, Banana Peppers

Short Dog: .35 extra **Foot Longs .50 extra**

Tomato Slice	.20
American Cheese Slice	.30
Cheddar Cheese Slice	.40
2 Bacon Strips	.61

Shrimp & Chicken Baskets

Deep Fried Battered Shrimp 6.99
Includes fries, coleslaw & roll

Chicken Tenders 5.99
Includes fries, coleslaw, & roll

We Fry with Trans Fat Free Canola Oil

Hamburger / Hot Dog / Corn Dog 3.35
Chicken Tenders 3.70
Includes fries, 12 oz drink & treat
Available to our customers 10 years of age and under

Side Orders

Fries	1.35
Onion Rings	2.45
Mushrooms Deep Fried	2.06
Cole Slaw (cup)	.95
Chicken Tenders (3 strips)	3.70
Shrimp Side	5.25
Curly Q-Fries	1.35
Cheese Fries	2.05
Chili Cheese Q-Fries	2.69
Mike-Sells Potato Chips	.55
Ranch, BBQ, Honey Mustard, Honey Pak	.45

Beverages

Root Beer *served in frosted mug*	1.43
Gallon Root Beer	3.60
Coffee (12 oz cup)	.79

Root Beer, Diet Root Beer
Coca Cola, Diet Coke, Sprite,
Lemonade, Barq's Red Cream Soda
Small 1.35 (16 oz) Large 1.69 (24 oz)

Add Cherry or Vanilla flavoring	.25
White Milk (12 oz serving)	1.30

Delicious Desserts

Root Beer Floats	Small	1.74	Large	2.14
Milk Shakes	Small	2.05	Large	2.65
Malts	Small	2.20	Large	2.80

Sundaes Now - Hand Dipped Ice Cream	2.67
Banana Split	3.60

Served with 2 toppings, whipped cream, peanuts & cherry

Topping Flavors

Hot Fudge, Chocolate, Pineapple, Butterscotch, or Strawberry

Extra Topping or Combinations (each)
.45

Choice of Vanilla or Chocolate Ice Cream

Hand Dipped Ice Cream Cones

Small 1.55 Large 1.95

845-Food (3663)

We are closed on: Easter Sunday, Mother's Day, Memorial Day, Father's Day, July 4th, & the Sunday before Labor Day - Last Day Open Sept 15th

Exhibit F6

MENU

LOCATIONS

WHATA LOTTA HAPPENINGS!

GIFT CERTIFICATES

SCHOOLS

OF INTEREST

WHATA LOTTA Pizza™

SEE THE WHATALOTTA VIDEOS & MEDIA ARCHIVE PAGE

**BETTER TASTE...
BETTER PRICE**

ORDER ONLINE

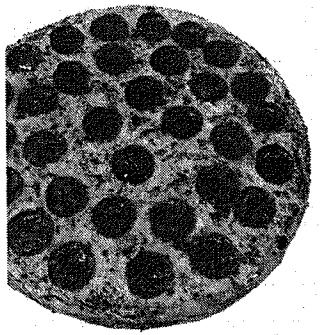
We now serve Gluten Free Pizzas

customer feedback | terms of use | careers | privacy policy | contact us

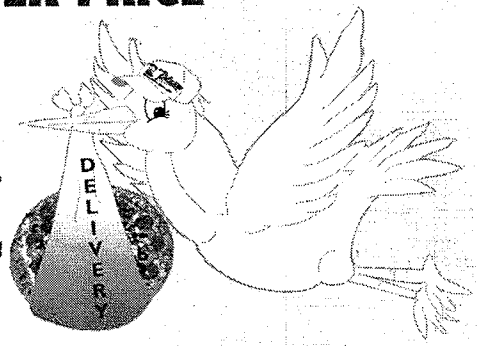
Wala Industries, Inc. © 2008-2011 -- Website Designed & Maintained by Clockwork Agency.

Whata Lotta Pizza

BETTER TASTE... BETTER PRICE

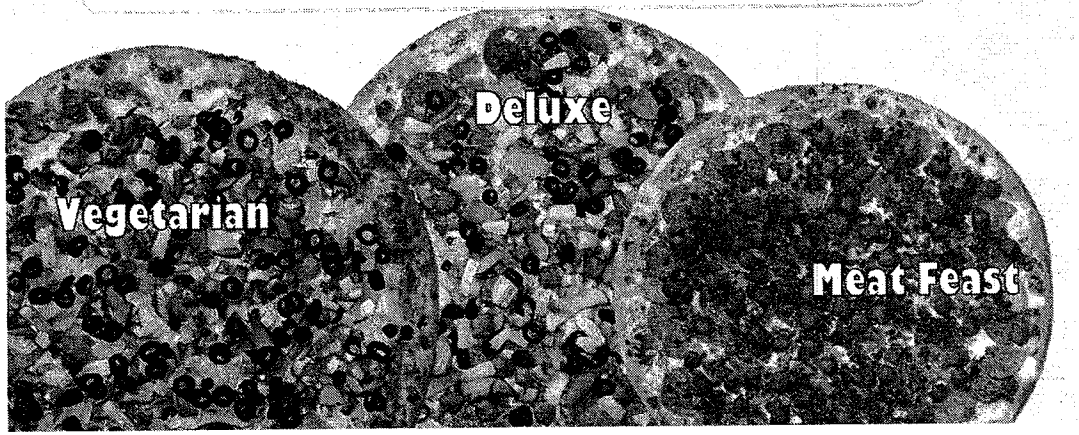


DELIVERED TO YOU HOT AND FRESH, BY OUR FRIENDLY STAFF!



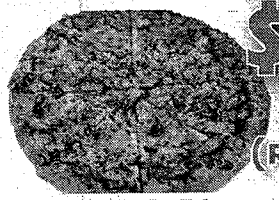
Whata Lotta Large Pizzas

Cheese	$6.99
Single Topping	$7.99
Double Topping	$7.99
Triple Topping	$9.99
Specialty Pizzas	$10.99



Certain to Satisfy

LET FREEDOM RING

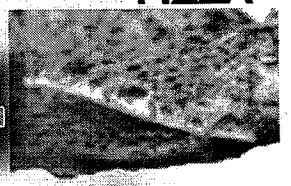


$8.99 (REG. $10.99)

BBQ Pizza

NEW! The Liberator PIZZA

Only $4



$3.99

French Bread Pizza Zapper
On White or Whole Wheat

$5.99

Cheezy Garleezy
Bread Sticks

$3.99

Cinnamazers
Can't forget Dessert!

$5.99

Whata Lotta
Wild Wings

Whata Lotta Pizza

BETTER TASTE... BETTER PRICE

order online
www.whatalottapizza.com

Exhibit F7

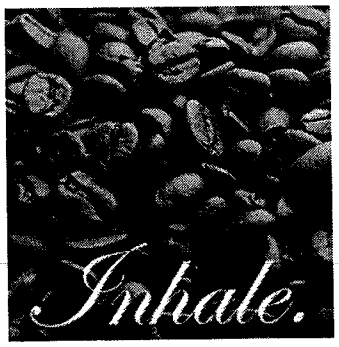
Home Coffee Cold Drinks Bagels & Pastries Meals

Welcome to What a Grind Coffee House

The What a Grind Coffee House is the place to get a great tasting coffee, latte, cappuccino, an irresistible snack or a hunger-satisfying meal.

Coffee, Food and Internet

Conveniently located on the Muni 2,3,4 line between Hyde and Leavenworth, What a Grind has a menu of tasty treats to help you recharge your batteries.
WiFi and broadband internet access are available for checking your email or just browsing the net.



The dark, rich aroma of the house blend fills the air. Sam greets you with a warm smile behind friendly but slightly tired eyes.

It's good to be here because this is the place where friends meet for lunch. Or just stop by to unwind with a cup and read their email.

It shouldn't be hard to find your own excuse to stop in. Get your coffee and sit down. Lift your cup and inhale.

A Great Local Café

What a Grind is a one of a kind café with roots in the San Francisco culture and community.
Local artist and musician Santie Huckaby painted the "Marilyn" mural which adorns the wall.
Santie, who modestly describes himself as a "sign painter", has a number of outdoor and indoor murals to his credit. Sam, the proprietor, has had a long friendship with Santie and has maintained an interest in his career as an artist.

Drop By and Say Hello

Sam invites you to drop by. On your way to work or on the way home. Get a cup and enjoy the comfortable, friendly atmosphere of this great gem of a coffee house.
And while your there, say hello and tell Sam your problems, and he will tell you his. There's no charge for the therapy.

What a Grind Coffee House
881 Post Street
San Francisco, CA 94109

Tel: 415·921·9800

whatagrindcafe@yahoo.com

We do catering.
Call in advance to place your order.

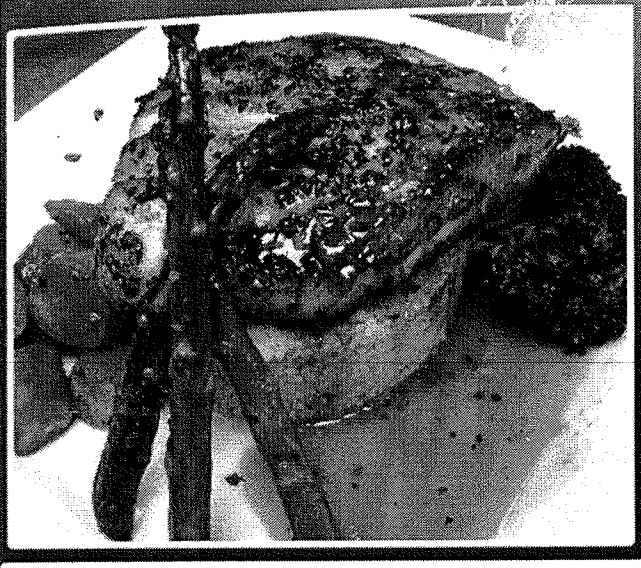
© 2005 What a Grind Coffee House

Exhibit F8

Natural, fresh, organic.
Real food. Real flavors.

What a Dish cafe & catering

blog twitter facebook
DANA POINT, CA 949.276.4884



What a Dish Cafe

Our kitchen is committed to nurturing the yield of our earth with simple preparations of the best ingredients. The menu concepts begin around fresh, seasonal ingredients as Chef Cathy and her team unite their talents to deliver an unparalleled meal. Our friendly and attentive service staff completes this exceptional dining experience in the heart of Dana Point Harbor.
Please call us at 949.276.4884 or eMail us at jordan@WhatADishOC.com.

What a Dish Cafe is Open for
Lunch: Tuesday to Friday 10:00am - 3:00pm (View Lunch Menu)
Plated Brunch: Saturday & Sunday 9am to 3pm (View Brunch Menu)

Visit our *"Daily Dish"* Blog: WhatADishCafeCatering.blogspot.com

What a Dish Catering

From the most intimate of gatherings or the grandest of weddings, What A Dish is committed to establishing our clients' dream events. Our friendly team's collective expertise in cuisine, artful designs, and event planning ensures that no detail gets overlooked.

We are the preferred caterers at several local venues and look forward to tailoring your next event. (View Sample Catering Menu).

Please call us at 949.276.4884 or eMail us at jordan@WhatADishOC.com to set-up an appointment to discuss your next catering event needs.

Got Cake? Visit ItsAllAboutTheCake.com

©Copyright 2011, What a Dish Catering

24921 Dana Point Harbor Drive, Suite B100, Dana Point, CA 92629 - Ph: 949.276.4884 ~ Map & Directions

Calling all Foodies & Closet Chefs, Be a Dish for the Day!!
Click here to download the "SO YOU THINK YOU'RE A CHEF" CONTEST form.

Website design and hosting by BuildingOnline.net

WHAT a DISH catering

(FALL LUNCH TUESDAY – SUNDAY 10 a.m. – 3 p.m.)
(FALL BRUNCH SATURDAY – SUNDAY 9 a.m. – 3 p.m.)

"PASTA"

HAPPY AS A CLAM LINGUINI
ORGANIC GLUTEN FREE BROWN RICE PASTA, CLAMS, PARSLEY, WHITE WINE & CHOPPED TOMATO WITH A TOUCH OF GARLIC AND BUTTER / 10

CHICKEN PESTO PASTA
GRILLED CHICKEN, FRESH PESTO, PINE NUTS TOMATOES, BABY SPINACH & ORGANIC PENNE / 10

"SALADS"

ALBACORE TUNA
ALBACORE TUNA MIXED WITH DICED RED ONION, CAPERS, CELERY WITH A TOUCH OF BEST FOODS MAYONNAISE ON A BED OF MIXED GREENS / 10

CLASSIC CHICKEN CAESAR
FRESH ROMAINE WITH ORGANIC FREE RANGE GRILLED CHICKEN, HOMEMADE CAESAR DRESSING, CROUTONS & SHAVED PARMIGIANO-REGGIANO / 10

COBB
CHOPPED ROMAINE TOPPED WITH HOUSE ROASTED HERB TURKEY, NO NITRATE BACON, EGG, BLEU CHEESE, TOMATO, CHEDDAR & AVOCADO / 12

GRILLED STEAK
PRIME FLAT IRON STEAK, FRESH MIXED GREENS, SUN DRIED TOMATOES, BLUE CHEESE CRUMBLES TOSSED IN BLUE CHEESE DRESSING / 13

BOSC PEAR & MAYTAG BLEU
ORGANIC MIXED GREENS TOSSED IN HOUSE CITRUS VINAIGRETTE, CANIDIED WALNUTS, CRANBERRIES, BOSC PEARS & MAYTAG BLUE CHEESE / 11

"CALIFORNIA ORGANIC COWGIRL CREAMERY SIDES"

6 OZ CRÈME FRAICHE, COW'S MILK / 4
6 OZ LG. CURD COTTAGE CHEESE, COW'S MILK / 4
4 OZ. MT. TAM TRIPLE CREAM, COW'S MILK / 7
4 OZ. RED HAWK, COW'S MILK / 7
6 OZ.BELLWETHER FARM YOGURT, SHEEP'S MILK VANILLA OR PLAIN / 5

"SANDWICHES"

(SERVED WITH HOUSE SALAD OR SOUP)
ALL SERVED ON FRESH BAKED CIABATTA ROLLS UNLESS NOTED

CROQUE MONSIEUR DE JOUR
DAILY FRENCH STYLE GRILLED CHEESE
ASK YOUR SERVER / 10

CHICKEN SALAD
TENDER CHICKEN, DRIED CRANBERRIES, APPLES & CELERY SERVED ON HOMEMADE CINNAMON RAISIN TOAST WITH LETTUCE & TOMATO / 11

GRILLED VEGETABLE
GRILLED ZUCCHINI, EGGPLANT, ROASTED TOMATO, GRILLED MUSHROOMS, ROASTED PEPPERS & PROVOLONE CHEESE WITH HOMEMADE PESTO / 10

HOT GRILLED CHICKEN
GRILLED CHICKEN, APPLEWOOD BACON, CARAMELIZED ONION & PROVOLONE CHEESE WITH CHIPOTLE AIOLI / 11

CHICKEN PESTO BRIE
HOMEMADE PESTO, FREE RANGE GRILLED CHICKEN, BRIE CHEESE, SUNDRIED CRANBERRIES, TOMATO & HAND LEAF LETTUCE / 12

SMOKED TURKEY BLT
HOUSE ROASTED TURKEY, NO NITRATE MAPLE CURED BACON, HAND LEAF LETTUCE, TOMATO WITH DIJON MAYO SPREAD / 12

SHAVED PRIME RIB
OVEN ROASTED PRIME RIB WITH CARMELIZED ONIONS, PROVOLONE CHEESE & HORSE RADISH CREAM / 13

CHILDREN'S GRILLED CHEESE
SERVED WITH APPLESAUCE / 6

"SIDES"
SLICED AVOCADO / 4
SLICED ORGANIC HEIRLOOM TOMATOES / 4
FRESH SEASONAL FRUIT / 4
SM. SOUP / 4
LG. SOUP / 6

THINGS TO KNOW
WHAT A DISH & IT'S ALL ABOUT THE CAKE ARE COMMITTED TO USING THE FINEST INGREDIENTS, PREPARED FRESH DAILY. OUR COFFEE IS CUSTOM ROASTED IN SMALL BATCHES TO OUR TASTE. PLEASE NOTIFY YOUR SERVER OF ANY DIETARY RESTRICTIONS. PARTIES OF 6 OR MORE ARE SUBJECT TO AN 18% GRATUITY. BOOK OUR CAFÉ FOR YOUR NEXT CELEBRATION! AVAILABLE FOR THE MOST UNIQUE AND DISH-LICOUS PRIVATE PARTIES.

WHAT A DISH & IT'S ALL ABOUT THE CAKE T-SHIRTS & GIFT CARDS AVAILABLE.
WEAR A TEE BE A DISH!

24921 Dana Point Harbor Drive Suite B100 D.P. Ca 92629
Office: (949) 276 - 4884 Fax: (877) 644 - 4569
Email: WhataDish@Mac.Com

FALL BRUNCH

(Saturday – Sunday (9 a.m. – 3 p.m.)

WHAT a DISH catering

"DISH" A LICIOUS STUFF

HOUSE PEE WEE POTATOES AND FRESH MUFFIN ON EGG DISHES

EGG WHITE OMELETTE
SPINACH, TOMATO & CHOICE OF CHEESE WITH A FRESH MUFFIN / 9

COUNTRY OMELETTE
APPLEWOOD SMOKED BACON, HAM, SAUSAGE, ONIONS & CHEDDAR CHEESE WITH A FRESH MUFFIN / 12

VEGGI OMELETTE
GRILLED VEGGIES, MUSHROOMS & CHEDDAR CHEESE, FRESH MUFFIN / 9

DISH CLASSIC
1 SAUSAGE, 1 BACON, 2 EGGS & BUTTERMILK PANCAKE WITH BAKED APPLES / 12

CLASSIC EGGS BENEDICT
TOASTED SOURDOUGH ENGLISH MUFFIN, CANADIAN BACON, POACHED EGGS & HOMEMADE HOLLANDAISE / 10

CRABBY BENEDICT
FRESH LUMP CRAB CAKES, SPICES, LEMON AIOLI, POACHED EGGS WITH HOMEMADE HOLLANDAISE SAUCE / 13

D.P. SUNRISE SANDWICH
ROASTED BELL PEPPER, ONION, SCRAMBLED EGGS, CHEDDAR CHEESE & CHOICE OF APPLEWOOD BACON, HAM OR SAUSAGE ON FRESH BAKED CIABATTA WITH SPICY AIOLI / 10

UPSIDE DOWN BAKED APPLE PANCAKE
SEASONAL APPLES CARMELIZED WITH CINNAMON & BROWN SUGAR TOPPED WITH HOUSE APPLE BUTTER DRIZZLE / 12

CHEF CATHY'S CRANBERRY GRANOLA PARFAIT
BELLWETHER FARM SHEEP'S MILK PREMIUM ORGANIC YOGURT & SEASONAL FRUIT
(VANILLA OR PLAIN YOGURT) / 10

THIS ONE IS FOR THE DOGS!!!
SPIKE'S CHICKEN / 2

"PETITE DISHES"

FOR THE CHILDREN

SMALL STACK PANCAKES WITH BACON OR SAUSAGE / 5
SMALL APPLE PANCAKE / 5
SCRAMBLED EGGS AND CHEESE / 5

"SIDES"

APPLEWOOD SMOKED BACON / 4
CINNAMON APPLE SAUSAGE / 4
ONE FARM FRESH ORGANIC CALIFORNIA EGG / 3
ENGLISH MUFFIN / 2
FRESH BAKED MUFFIN / 3
SLICED AVOCADO / 4
SLICED ORGANIC HEIRLOOM TOMATOES / 4
FRESH SEASONAL FRUIT / 4
6 OZ. LG. CURD COTTAGE CHEESE, COW'S MILK / 4

HOUSE GRANOLA
WITH DRIED CRANBERRY & GOLDEN RAISINS, SPICED WITH CINNAMON & CARDAMOM CHOICE OF 2%, NONFAT OR WHOLE MILK / 5

"BEVERAGES"

PREMIUM ROASTED HOUSE BLENDED COFFEE / 2
LATTE / 4
CAPPUCCINO / 4
HOT CHOCOLATE / 2
ESPRESSO / 2
LEMONADE / 2
HOT TEA / 2
HOUSE BREWED ICED TEA / 2
ARNOLD PALMER / 3
SPARKLING PELLEGRINO WATER / 3
BOTTLE WATER / 2
2% MILK / 2
NON FAT MILK / 2
WHOLE MILK / 2

BUBBLES: "KENWOOD YULUPA"

BRUT BOTTLE 22.00
BRUT ROSE BOTTLE 22.00
BRUT SPLIT 6.00
BRUT ROSE SPLIT 6.00

WHITE WINE:

KENWOOD YULUPA CHARDONNAY 18.00 / 6.00
BONTERRA CHARDONNAY"09" 22.00
BONTERRA SAUVIGNON BLANC"09" 22.00
VALLEY OF THE MOON PINOT BLANC"09" 24.00
PATIANA CHARDONNAY"09" 28.00

RED WINE:

KENWOOD YULUPA MERLOT 18.00 / 6.00
KENWOOD YULUPA CABERNET SAUVIGNON 22.00 / 7.00
KENWOOD YULUPA "OLD VINE" ZINFANDEL 18.00 / 6.00
BONTERRA CABERNET SAUVIGNON"08" 22.00
PATIANNA SYRAH 33.00
ROBERT HALL RHONE DE ROBLES 26.00
LANTRY TEPHRA CABERNET SAUVIGNON 65.00

THINGS TO KNOW

WHAT A DISH & IT'S ALL ABOUT THE CAKE ARE COMMITTED TO USING THE FINEST INGREDIENTS, PREPARED FRESH DAILY. OUR COFFEE IS CUSTOM ROASTED IN SMALL BATCHES TO OUR TASTE. PLEASE NOTIFY YOUR SERVER OF ANY DIETARY RESTRICTIONS. PARTIES OF 6 OR MORE ARE SUBJECT TO AN 18% GRATUITY. BOOK OUR CAFÉ FOR YOUR NEXT CELEBRATION! AVAILABLE FOR THE MOST UNIQUE AND DISH-LICOUS PRIVATE PARTIES.

WHAT A DISH & IT'S ALL ABOUT THE CAKE T-SHIRTS & GIFT CARDS AVAILABLE.
WEAR A TEE BE A DISH!

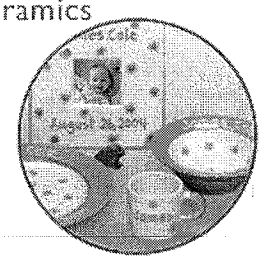
24921 Dana Point Harbor Drive Suite B100 D.P. Ca 92629
Office: (949) 276 - 4884 Fax: (877) 644 - 4569
Email: WhataDish@Mac.Com

Exhibit F9

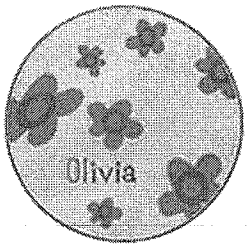
personalized, handmade, handpainted ceramics

How to Order | About Us | Contact

personalized ceramics

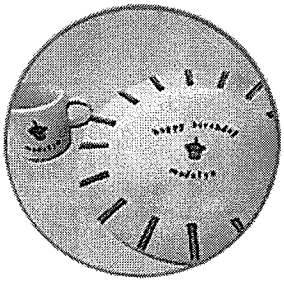


melamine

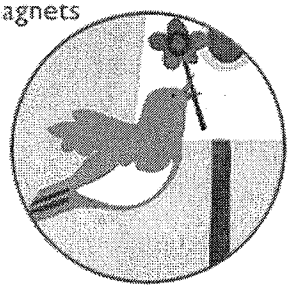


holiday

birthday



wall art & magnets



brand new!

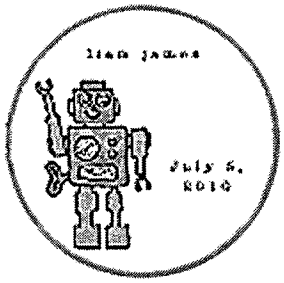
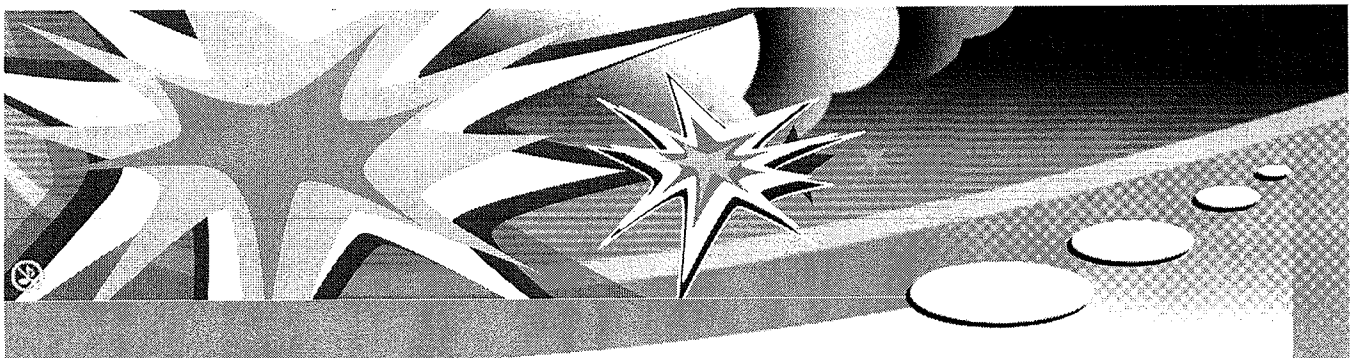


Exhibit F10

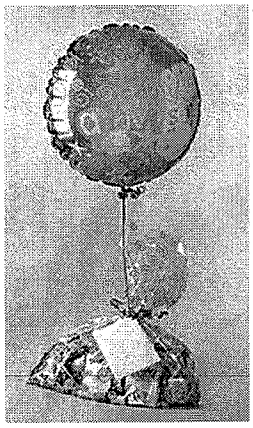


Home
May Special
Our Services/Pictu
Team Baskets
Occasions/Holidays
Balloons
FAQ
Content/About Mim
Customer Feedback

Ah, Whatta 'Bout Mimi

Recognition Services

Ah, Whatta 'Bout Mimi provides fast, fun and affordable recognition to raise employee morale and lower employee turnover. Instead of spending dollars on employee recruitment and selection, training and loss of revenue due to improperly trained employees - hang on to the ones you have by letting them know they are appreciated and at the same time increase productivity with happy employees!



Trying to create a recognition culture can be difficult and time consuming - we make it easy and operator friendly! Our automated programs make it simple to never miss an employee birthday or that all important anniversary for years of service. Whether you have only a few individuals or thousands to remember we will make it happen in three easy steps -
1. Give us a call
2. We'll help you select the appropriate gift(s) to meet your budget
3. Go about your daily responsibilities knowing that your employees will be recognized!
So if you are ready to take the step to creating a recognition culture that will WOW! your team who will in turn WOW! you and your customers, call us today, 502-773-5730.

See more great ideas under Our Services!

Ah, Whatta 'Bout Mimi
3315 Rudd Avenue
Louisville, KY 40212

Phone: 502-773-5730
Email: whattaboutmimi@msn.com

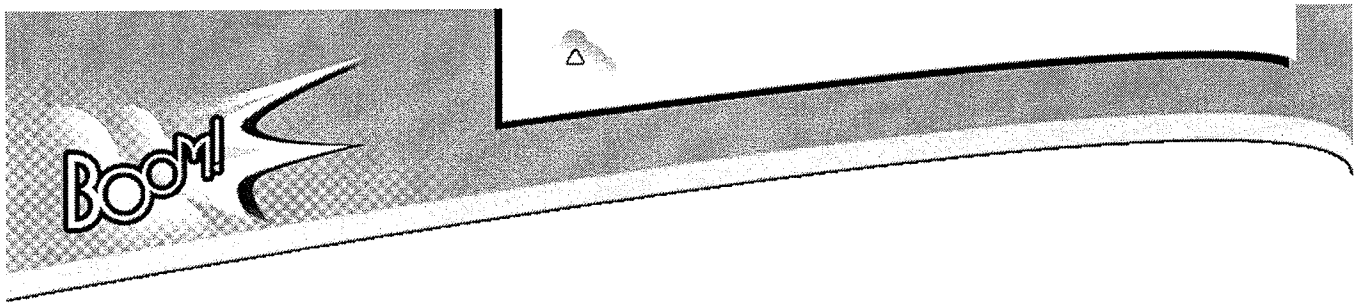


Exhibit F11

Home
DJs and MCs
Packages
Special Features
Past Clients
FAQ
Contact Us

par ty (par`ti) n. a social assembly

What are you looking for in an entertainer?

Most people invest a lot of time and money into their event to make it a special day.

You want someone with experience and expertise to make your event truly one to remember.

Here at What A Party! we are more than just DJs. Since 1991 we have been helping clients celebrate some of the biggest days of their lives. We offer knowledeable and experienced reception planning and order of events coordination.

We act as Master of Ceremonies, which will help to keep smooth the flow of events. We provide a huge music selection and a variety of packages to fit your needs. Every detail of your event is important to us. On your event day you won't have to worry about a thing except having fun at your own party!

The right entertainment can make memories you will cherish for the rest of your life. What A Party! has a reputation for being elegant, professional, and high energy entertainers. We want to work with you in making your event the most memorable day, a truly spectacular celebration.

Give us a call and together we will create...

What A Party!

For more detailed information, email info@whataparty.com or call our office at 1-800-942-8272.

Packages **Special Features** **Contact Us:**

Weddings	DJs and MCs	800-942-8272
Mitzvahs	Party Giveaways and Prizes	661-799-0447
Anniversaries	FAQ	
Graduations		

Site by Fidelity Media Services.

Exhibit F12

WHAT-A-BLAST™
EXTREME LASER TAG
Formerly Dungeon Duel

HOME
ABOUT
HOURS
PRICING
CONTACT
PARKING
PIZZA
INVITATIONS

What-A-Blast is the ultimate laser tag experience played in a 2400 sq/ft arena in downtown State College! Named the Best of Amusement Places in State College since 2008 by the US Local Business Association, you know it will be beyond fun for guys and girls alike!! It is truly appropriate for all ages over six. Though very popular for kids birthday parties, college kids and organizations, greeks, high school and middle school kids, sports teams, youth groups, families, office workers, and adult friends also thoroughly enjoy it!!!

**111 Sowers St.
State College, PA
16801
814.234.8740**

With a reservation of six or more players, you have the place to yourselves! Birthday parties or Group outings!. Normal reservations are for 2 hours of play time, but if necessary, there are also one hour reservations.

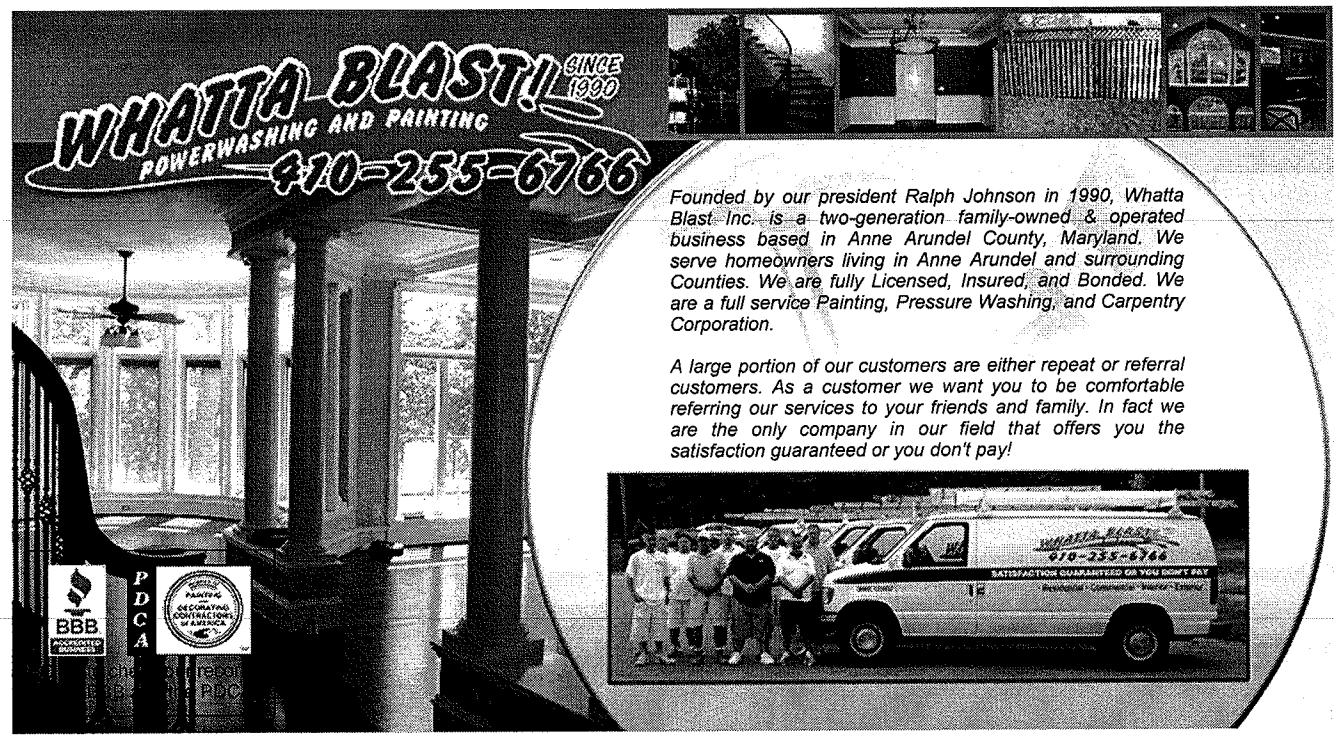
Walk-in's still please call 234-8740 first to ensure the facility is available and staffed. We are currently staffing to scheduled parties, so it is best to pre-schedule. If it is a last minute decision, please give us 15 minutes to get there.

Call 234-8740 or email whatablastlasertag@gmail.com

Monday, Tuesday, and Wednesday evenings are excellent times for large groups and organizations!!.

Call (814) 234-8740 for details.

Exhibit F13



Founded by our president Ralph Johnson in 1990, Whatta Blast, Inc. is a two-generation family-owned & operated business based in Anne Arundel County, Maryland. We serve homeowners living in Anne Arundel and surrounding Counties. We are fully Licensed, Insured, and Bonded. We are a full service Painting, Pressure Washing, and Carpentry Corporation.

A large portion of our customers are either repeat or referral customers. As a customer we want you to be comfortable referring our services to your friends and family. In fact we are the only company in our field that offers you the satisfaction guaranteed or you don't pay!

About Us Services Photo Gallery Testimonials FAQ Online Estimate Contact Us

MHIC #123437
Click above to search for our MHIC record

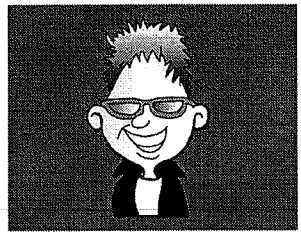
© 2009 WHATTABLAST, INC.
All rights reserved.

Exhibit F14

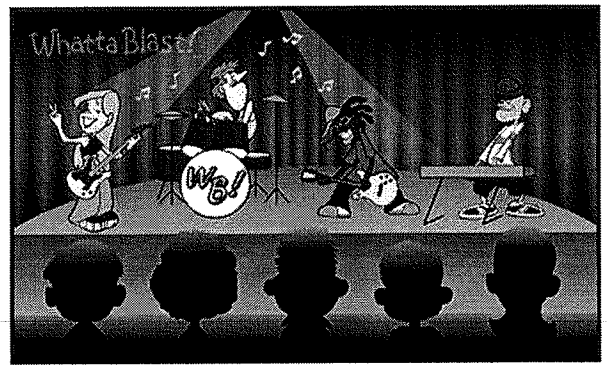
Fun Stuff
Cool Stuff
Tuff Stuff
Parents and Teachers
Community
Contact

WhattaBlast!™

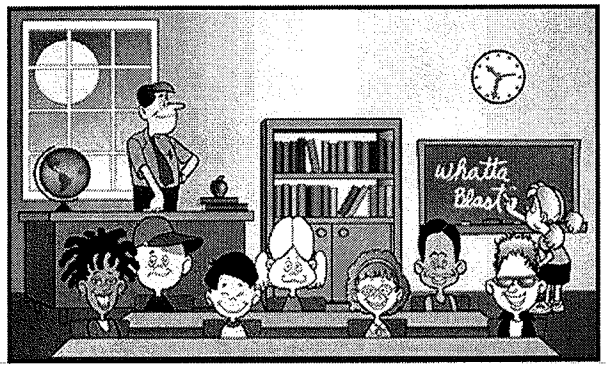
Web Resources and Connections for Kids.



Fun Stuff



Cool Stuff



Tuff Stuff

Parents and Teachers

Whatta Blast! ™

Web Resources and Connections for Kids.

Whatta Blast! is a place where kids can find web resources, make friends and enjoy age appropriate entertainment. Kids can explore links to a variety of homework tools, games, music, webcasts, podcasts, webcams, chats, health and science news, animation, cartoon, humor and comic sites. Parents and Teachers will find valuable resources, connections and information as well.

To really enjoy Whatta Blast! use your F11 key and turn up the audio.

copyright Whatta Blast!™ 2006
all rights reserved

Exhibit F15

WhattaCrockLLC

Richly Scented
Custom-Made
StoneWare Crock Candles

Your Cart
Empty

Advanced Search

View Cart

Checkout

Service

Home

Categories
Best Sellers
Animals
Baby Bowls
Christmas
Cocky Crocks
Country
Fantasy
Flora
Hope and Harmony
Miscellaneous
Patriotic
Peace and Harmony
Religious
Rustic

Featured Products

Wild Sunflowers

Wild Sunflowers

Stitched Apples

Stitched Apples

Rocket's Red Glare

Flag with part of national anthem written on it.

Its OK

It's ok

Ameican Cycle

Motorcycle painted with american flag. image is permanently fired onto a hand-made stoneware crock.

Welcome to WhattaCrockLLC

Welcome to Whatta Crock, LLC

All crocks online are size Medium, we also have small large and large short available. Refills and Stained glass lampshades handmade for our crocks are also available. please contact us for details.

Life Cycle of a crock

First: The product was made from the 'ground-up' by first beginning with a prototype that was found of a stoneware crock. The prototype was then taken to a stoneware mold maker and created at the time 3 custom-made molds in 3 sizes. We use only high quality liquid stoneware and create our crocks in a four step process. We do not buy our crocks, they are completely home made.

Next: The crocks are hand poured into the molds. After a drying process, hand sanding , and trimming to specifications the crocks are cleaned and painted.

Third: The crocks are then fired in a commercial kiln for the first time.

Fourth: The next step is to glaze each crock by hand in a detailed dipping process.

Fifth: Then the crocks are again fired for the second time and are ready for the detail work to be decaled. These decals are adhered to the stoneware and again fired to permeate the stoneware and thus set the decal permanently into the crock.

Last: The final phase of creating the Whatta Crock Stone Ware crock candle is to custom make the scent of each candle. We hand pour each and every candle and stir in the scent with a whip to infuse the wax completely.We make the crocks in four sizes Large, Large short, Medium and small. Our goal is to have a slow burning richly scented candles contained in beautiful Stone Ware Crocks that has a scent that can permeate a room.Other fine products we create are mugs, coasters, lampshades, glass pendents baby bowls, Boo's burners and scent cups to accompany our crocks.

Whatta Crock, llc

Like 15

Whatta Crock, llc on Facebook

E-mail a friend about WhattaCrockLLC.

ProStores

Copyright © 2011WhattaCrockLLC , All Rights Reserved.

Exhibit F16

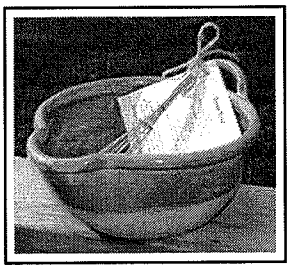
Home

Welcome to What A Crock Pottery!

What A Crock is not your ordinary pottery studio. Here you'll find designs perfect for any room in your home. With tasteful, classic designs which may be customized to fit nearly any decor. Functional yet stylish perfectly describes What A Crock stoneware pottery. **Each piece is handcrafted and unique.** Nothing is ever molded, so you know your piece was handcrafted by reknowned potter Cindy Wilkins.

Our pottery is lead-free, dishwasher and microwave safe. Our handcrafted pottery is very durable and with proper care will last a lifetime, or longer.

Browse our Pottery Design pages and look for the unique piece of pottery perfect for your home! **Live in the Chicagoland area?** Call us to schedule a visit our showroom of select samples and discuss your design needs with Cindy today!



Contact What A Crock pottery at 630-897-0063 or click here to email Cindy.

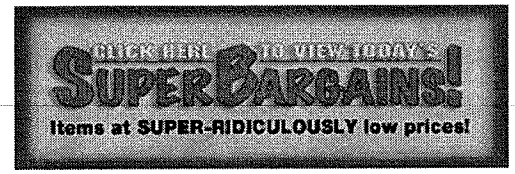
© 2010 What A Crock Pottery | Site Design by: TR-1 Studios

Warning. you are using an old version of Internet Explorer. Please upgrade to IE 8 or later for maximum site compatibility!

Exhibit F17

W.B. MASON'S WHATTA BARGAIN!

1-888-358-6225
whattabargain@wbmason.com



Low Priced Office Furniture!

W.B. Mason's ***Whatta Bargain!*** is a unique shopping experience. You won't find greater savings or values in office furniture and business equipment*. Our giant showroom features hundreds of items and a constantly changing inventory. All sold to you at ***ridiculously low prices***. Simply put, there is nowhere else you can find all this in a single, convenient location.

Whatta Bargain!

- Plenty of Free Parking
- Delivery Available
- New Office Products (furniture, machines, supplies*) from quality manufacturers sold at *RIDICULOUSLY LOW PRICES*.
- Seconds-new products that may have minor flaws, ie. nicks or dents, all sold at *RIDICULOUSLY LOW PRICES*.
- Used Office Products in superb condition sold at *RIDICULOUSLY LOW PRICES*.
- And did we mention *RIDICULOUSLY LOW PRICES*?

*Some locations feature office furniture exclusively.

Now You Can Save At SIXTEEN Locations!

ALBANY Maps	29 Mill Street Albany, New York (Furniture Only)	**Showroom Hours:** Monday - Friday ... 8:00 am - 5:00 pm	Closed Saturday & Sunday
BOSTON Maps	647 Summer Street South Boston, Massachusetts (Furniture, Business Equipment & Supplies)	**Showroom Hours:** Monday - Friday ... 9:00 am - 5:00 pm Wednesday ..... 9:00 am - 6:00 pm	Closed Saturday & Sunday
BROCKTON Maps	1010 West Chestnut Street Brockton, Massachusetts (Furniture, Supplies & Toner)	**Showroom Hours:** Monday - Friday ... 8:00 am - 5:00 pm	Closed Saturday & Sunday
CRANSTON Maps	99 Bald Hill Road Cranston, Rhode Island (Furniture Only)	**Showroom Hours:** Monday - Friday ... 8:30 am - 5:00 pm	Closed Saturday & Sunday
EAST SYRACUSE Maps	6018 Corporate Drive East Syracuse, New York (Furniture, Business Equipment & Supplies)	**Showroom Hours:** Monday - Friday ... 8:00 am - 5:00 pm	Closed Saturday & Sunday
HAMDEN Maps	2460 State Street Hamden, Connecticut (Furniture Only)	**Showroom Hours:** Monday - Friday ... 8:00 am - 5:00 pm	Closed Saturday & Sunday
HAUPPAUGE Maps	90 Nicon Court Hauppauge, New York (Furniture Only)	**Showroom Hours:** Monday - Friday ... 8:00 am - 5:00 pm	Closed Saturday & Sunday
HYANNIS Maps	55 Falmouth Road Hyannis, Massachusetts (Furniture Only)	**Showroom Hours:** Monday - Friday ... 8:00 am - 5:00 pm	Closed Saturday & Sunday
NEW BEDFORD Maps	650 Mount Pleasant Street New Bedford, Massachusetts (Furniture Only)	**Showroom Hours:** Monday - Friday ... 8:00 am - 5:00 pm	Closed Saturday & Sunday
NORTHAMPTON Maps	59 Service Center Road Northampton, Massachusetts (Furniture, Business Equipment & Supplies)	**Showroom Hours:** Monday - Friday ... 8:30 am - 5:00 pm	Closed Saturday & Sunday
PORTLAND Maps	106 Pine Tree Industrial Parkway Portland, Maine (Furniture & Business Equipment)	**Showroom Hours:** Monday - Friday ... 8:00 am - 5:00 pm	Closed Saturday & Sunday
SOUTH BRUNSWICK Maps	21 Commerce Drive Cranbury, New Jersey (Furniture, Business Equipment & Supplies)	**Showroom Hours:** Monday - Friday ... 8:30 am - 5:30 pm	Closed Saturday & Sunday

SOUTH BURLINGTON Maps	68 Nesti Drive South Burlington, Vermont (Furniture, Business Equipment & Supplies)	**Showroom Hours:** Monday - Friday ... 8:00 am - 5:00 pm	Closed Saturday & Sunday
VINELAND Maps	1350 Southwest Boulevard Vineland, New Jersey (Furniture Only)	**Showroom Hours:** Please Contact Your Sales Rep	Closed Saturday & Sunday
WATERTOWN Maps	150 Factory Street Watertown, New York (Furniture, Business Equipment & Supplies)	**Showroom Hours:** Monday - Friday ... 8:00 am - 5:00 pm	Closed Saturday & Sunday
WORCESTER Maps	10 Distributor Road Worcester, Massachusetts (Furniture Only)	**Showroom Hours:** Monday - Friday ... 9:00 am - 5:00 pm	Closed Saturday & Sunday

© 2007 W.B. Mason Company

Exhibit F18

HOME

RENTALS

TUNING / REPAIR

TRAILS

MEDIA

FORUMS

CONTACT US

Coming soon.

LATEST NEWS

Lake Tahoe's Premiere Bike Shop

Thank you for visiting Wattabike.com, the online location of Watta Bike Shop, Lake Tahoe, California's top bicycle retailer.

Please keep us in mind for your next spring or summer vacation to Lake Tahoe. We feature new bikes from Schwinn, Titus, Mongoose, Intense, Transition Bike, GT, Iron Horse, and Yeti, and offer top-notch repair and service of all makes of bicycles. We also are Lake Tahoe's best choice for bike rentals!

Finally, we know all of Lake Tahoe's best road bike routes and mountain bike trails. Email us today to learn more about cycling in Lake Tahoe, as we gear up for another beautiful summer!

Copyright © 2008, Wattabike Shop
South Lake Tahoe, CA - All Rights Reserved.

Exhibit F19

WHAT A COUNTRY

Home | About Us | Contact Us | My Account

VIEW CART / CHECKOUT

Search Site

Go

Shop by Category

- Air Rifles
- Barrels
- Cleaning Products
- Flare Pistols
- Gun Parts
- Knives & Bayonets
- Loaders
- Magazines & Drums
- Memorabilia
- Military Clothing
- Mounts & Tripods
- Night Vision & Optics
- Parts Kits
- Pouches
- Rifle Slings
- Sets & Combination Deals
- Stocks & Grips
- Stocks: M1 Carbine
- Surplus
- TAPCO
- x Closeout x

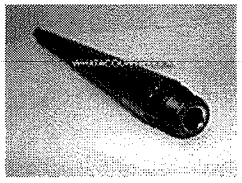
SECURED DATA ENCRYPTED

We accept: DISCOVER MasterCard VISA

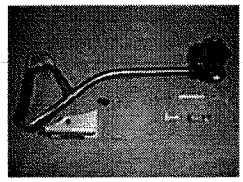
What A Country, Inc. Deals in magazines, gun parts, bayonets, night vision, and some rare collector's items. We have accessories for your favorite military weapons. We provide new and used products that are dependable and affordable. We hope that all of our customers will benefit from our great inventory and our great prices.

$10.95 Shipping on Most orders.
Certain items restricted as reflected in their descriptions.

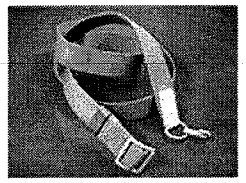
Featured Products



1919A4 .308 Barrel
MSRP: ~~$64.95~~
Price: $59.95
You Save: $5.00 (8 %)
Quantity: 1
Add to Cart
More Info

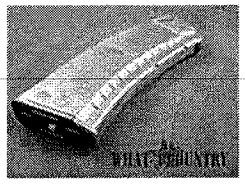


AK-47 Folding Stock New East German
Price: $109.95
Quantity: 1
Add to Cart
More Info

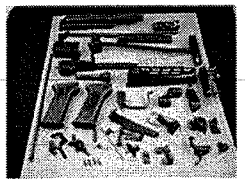


AK-47 Sling, Polish
Price: Starting at $10.95
More Info
Original Polish AK-47 Sling, OD Green

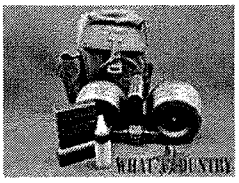
AK-47 US Made 7.62x39mm, 16" Barrel, New (EUR)
Price: $69.95
Quantity: 1
Add to Cart
More Info
Design based on European-block AK barrels.



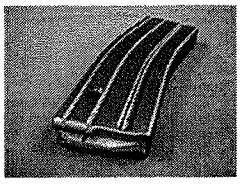
AK-74 Bulgarian 30-Round Magazine, Brown
MSRP: ~~$19.95~~
Price: $14.95
You Save: $5.00 (25 %)
Quantity: 1
Add to Cart
More Info
Limited Quantity Available



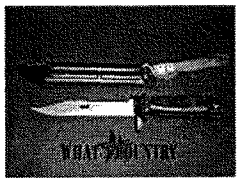
AMD 65 Parts Kit
Price: $169.95
Quantity: 1
Add to Cart
More Info



AR-15 100-Round Dual Drum Magazine



AR-15/M16 30-Round Magazine. Black



Bulgarian AKM/AK74 Bayonet,

Login

Email Address:

Password:
You will be prompted to enter your password on the next page

Go

Create an account
Forgot Password?

Shopping Cart

Your cart is empty.

Mailing Lists

Email Address:

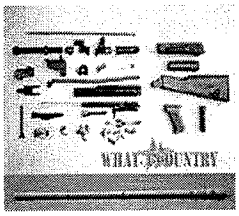
Submit

System - CAL. 5.56/.223
Price: $134.95
Quantity: 1
Add to Cart
More Info
New Item, Available Now!

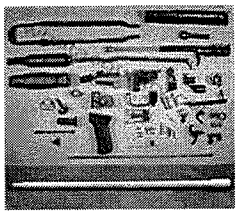
Teflon/Gray Follower. C Products Mfg.
MSRP: ~~$15.95~~
Price: $9.95
You Save: $6.00 (38 %)
Quantity: 1
Add to Cart
More Info
Order 10 or more for a price of $8.95 each!

Bakelite
MSRP: ~~$34.95~~
Price: $29.95
You Save: $5.00 (14 %)
Quantity: 1
Add to Cart
More Info

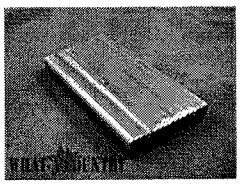
Colt M16A1 Parts Kit
Price: $519.95
Quantity: 1
Add to Cart
More Info
BACK IN STOCK! Original US Military Colt



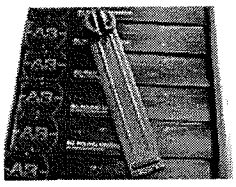
Combo Deal - Bulgarian AK-74 Parts Kit & Barrel
Price: Starting at $289.95
More Info
Parts Kit + Bulgarian Barrel



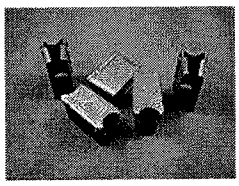
Combo Deal - Polish Underfolder AK-47 Parts Kit & Barrel
Price: $289.95
More Info
Parts Kit + New US Barrel



FAL .308 Magazine, Austrian
MSRP: ~~$29.95~~
Price: $24.95
You Save: $5.00 (17 %)
Quantity: 1
Add to Cart
More Info
Metric Austrian magazine



FN-PS90, P90, AR57 50-Round Magazine Translucent Black
MSRP: ~~$28.99~~
Price: $19.95
You Save: $9.04 (31 %)
Quantity: 1
Add to Cart
More Info
$19.95 Current Special | These will also fit: FN-PS90, P90, & AR57 Upper Receivers



M1 Garand En-Bloc Metal Clip 8-Round (5 pack)
Price: $8.45
Quantity: 1
Add to Cart
More Info
US made .30-06 chambered.

© 2011 What A Country, Inc.

Exhibit F20

WHAT
A GIRL
WANTS
our jewelry
upcoming events
party pix
i'm looking for...
join the party
What does
a girl want?
about us | contact us | media

Exhibit F21

What a Wedding!

At What A Wedding, we want you to relax and truly enjoy the celebration. By selecting us as your planners, you can rest assured knowing that we'll gather all of the details and work together to ensure that the wedding of your dreams becomes a beautiful reality.

So don't be too surprised when you and your guests are left saying, "WOW, WHAT A WEDDING"... since we've been known to have that effect on people!

Copyright 2010 What a Wedding! ~ All Rights Reserved ~ Site Designed by Love-Inspired

Exhibit F22

What a Woman Wants Show

homepage
event details
presenting
on stage
photo gallery
online coupon

marketing
booth registration
exhibitor information
contact us
other events

Upcoming Events:

April 8-9, 2011
South Towne Expo Center
Friday: 10:00 a.m. - 8:00 p.m.
Saturday: 10:00 a.m. - 6:00 p.m.

May 13-14, 2011
Two Rivers Convention Center
Friday: 10:00 a.m. - 8:00 p.m.
Saturday: 10:00 a.m. - 6:00 p.m.

September 23-24, 2011
South Towne Expo Center
Friday: 10:00 a.m. - 8:00 p.m.
Saturday: 10:00 a.m. - 6:00 p.m.

Come to the Ultimate Girls Day Out Show!

Show hours are on Friday 10 a.m. - 8 p.m. and Saturday from 10 a.m. until 6 p.m. Kids under 5 get in free, seniors are half price. Shop, Shop til you drop!! We've got everything women want! On the spot makeovers, skin care, the latest in home decor, to health and wellness.

You can find fillers, microdermabrasion, a great selection in jewelry, clothing, purses and cleaning products, not to mention the best gifts for any occasion.

Make sure to check out our exciting guests speakers at the event. Industry professionals will be presenting and instructing on various topics. Be sure to check out the stage schedule for complete details.

We have another exciting show planned! Mark your Calendars today!Kids are free 5 and under, the price for everyone is $5.00 a day. There is a 2 for 1 coupon located on this website.

OFFICE MAKEOVER
brought to you by Elase

tasteofhome
COOKING SCHOOL
click here to register

On the stage

April 8-9, 2011 | South Towne Expo Center

Friday
10:00 am Melanie Douglas
11:00 am Cake Decorating with Marshmellow Fondant
Saturday
1:00 pm Show Your Style -Tressa Branin

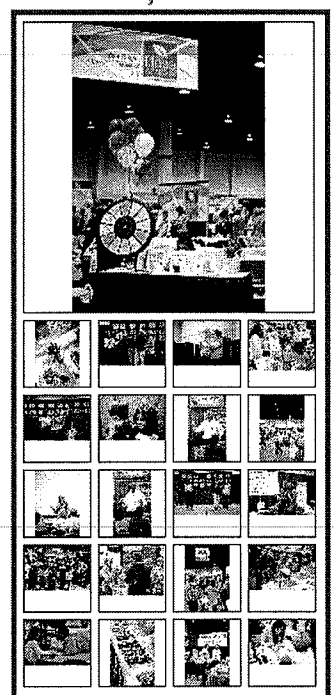
view full schedule

SPONSOR

LEANCUISINE

UTAH HOUSING COALITION

Photo Gallery



...see more

FM100.3 selecthealth. LEANCUISINE Elase HARMONS UTAH HOUSING COALITION RE-BATH

Exhibit F23

About Me

Who is Warren Goudreau of Whata Deal Travel?

Warren Goudreau is the dynamic owner and travel agent for Whata Deal Travel. He is based in Eagle Mountain, Utah and is driven to deliver the best travel experience at the best price to his customers across the country and around the world.

His travel experience began in 1990 with a special vacation reward from his employer. Warren and his wife, Linda, enjoyed a 5-day trip to Las Vegas. This began a long travel tradition.

Warren began Whata Deal Travel to share his passion for experiencing exciting locations with everyone he serves. He prides himself on finding the best deal to meet your needs and provide you with your ideal experience. He manages the details for you before you leave and ensures everything has been taken care of so when you begin your trip you can focus on what is important on vacation - relaxing!

Meet Warren | His Passion | Commitment | Focus

Copyright © 2010

Design by PressCoders.com

Proudly powered by WordPress.

Exhibit F24

a division of NetUpstarts Inc.

Give your business a BOOST

HOME
PORTFOLIO
ORDER FORM
NEWS
FAQ
AFFILIATES
REFERRALS
ABOUT US
CONTACT US

PICTURE Your Business?
Get a logo from WhataLogo.com!

RestStops.com

Nothing communicates a company or product's image better than a unique and professional **custom logo design** and a vanity toll free number and toll free service. Studies show people remember a picture FAR more than the words. So if you are a new company searching for a special custom corporate logo design or if you want a new logo design for your existing business--Get a custom logo design or a 800 service today from WhataLogo.com!

WhataLogo.com's creative team of highly skilled specialists has developed exceptional custom logo designs for clients in various industries. Our turnaround time is short, and the results are professional We also have well over 100 custom logo designs under our belts, all custom creations, not clip-art or "one size fits all". If you'd like to see samples of our custom logo designs, please CLICK HERE to visit our portfolio of custom logo designs.In addition, we can assist you with getting a vanity 800 number and checking availabilty for vanity toll free number service. The best advertising tool is a vanity toll-free number since your customers never forget vanity 800 numbers.We offer the attorney advertising available vanity 800 numbers such as 1-800-LAWYER in New York and at the same time, another lawyer advertising orders service for 1-800-LAWYER in Ohio. In addition, we now offer Renewable Energy Marketing and Solar Energy Advertising.

TeleDomains.com

Online GiftGuide.com

Traditionally, custom logo design has been an expensive and time consuming process. Not anymore! Not with WhataLogo! Click here for pricing information and our online order form for our custom logo design.

ORDER LOGO

© 1999-2011 by NetUpstarts Inc. Small Business Services including Vanity toll free number , Domain Names, 800 service, Logos Service, lawyer advertising, Available Vanity 800 toll free number services, Lawyer Marketing, attorney advertising. All rights reserved.
CUSTOM LOGO DESIGN PARTNERSHIP |vanity toll-free number, 800 service, buy 1800 number services | Attorney Advertising News |Available vanity 800 number, search toll free availability, Purchase 1800 number services| Attorney Advertising |Available vanity 800 number, search toll free availability, Purchase 1800 number services| COPYRIGHT INFO | Vanity 800 Number |Vanity Toll Free Number | Solar Energy Advertising | CUSTOM LOGO DESIGN PRIVACY POLICY | Lawyer Advertising, Attorney Marketing, Law Firm Advertising, Legal Marketing | Renewable Energy Marketing| Lawyer Advertising

Exhibit F25

What a Pair!

866 649 7463

Items in your cart (0) | Check Out | Customer Service

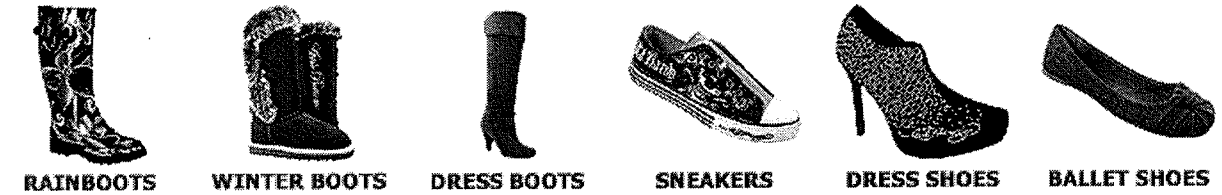
Featured Brands

Restricted · Alegria · Hello Kitty · Yellowbox · Jellypop · Rocket Dog · DKNY · kensie girl · Blowfish · Ed Hardy · Haflinger · Jambu

FREE Ground Shipping
Only Applies to the Continental US

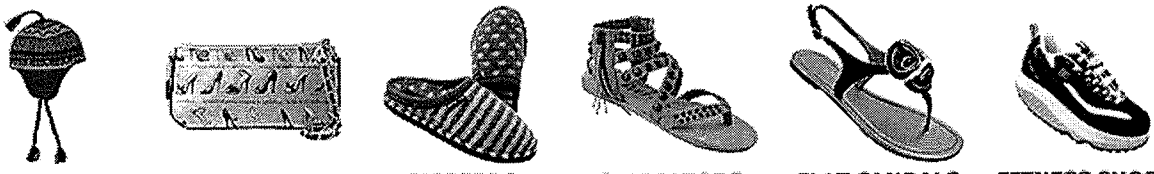
SHOP BY BRANDS click here to view now!

CLEARANCE SALE THERAPY



RAINBOOTS | WINTER BOOTS | DRESS BOOTS | SNEAKERS | DRESS SHOES | BALLET SHOES

CLOGS | CASUAL SHOES | FOLDABLE SHOES | CASUAL SANDALS | DRESS SANDALS | FLIP FLOPS



HATS | HANDBAGS | SLIPPERS | GLADIATORS | FLAT SANDALS | FITNESS SHOES

Advanced Search

Department
Brand
Color
Size

Select Style
All
Ballet Shoes
Bridal Shoes

Search

View all Woman

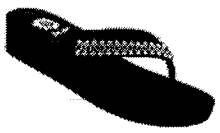
View all Sale

Shop By Price

$19.99 $23.99 $29.99 $33.99
$39.99 $43.99 $49.99 $59.99
$69.99 $79.99 $83.99 $116.99

FEATURED SHOES

Unionbay
I Love Peace
$39.99



Yellow Box
Lovesong
$52.99

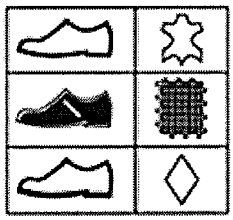
Nomad
Puddles Paisley
$38.99

Nomad
Hurricane
$40.99

Popular Searches

Rainboots Sheepskin Boots Clogs White Shoes
Casual Sneakers Flip Flops Winter Dress Boots Casual Boots
Ballet Flat Shoes Large Size Womens Shoes Kids Rainboots
Gladiator Sandals Casual Shoes Red Shoes Girls Ballet Flats

Shoe Labels Explained



Breast Cancer

We Support
Breast Cancer
Research.

International

WhatAPair Is Secure

About SSL Certificates

Directory

Shop By Brand
Advanced Search
Site Map
Shipping Policy

Directory

Contact Us
Sign up for our Newsletter
Terms of Use
WhataPair Blog

Archives

Womens Shoes
Womens Boots
Womens Sandals
Dress Shoes

FedEx Tracking

Alegria

Dav

Umbrellas

Haflinger

facebook

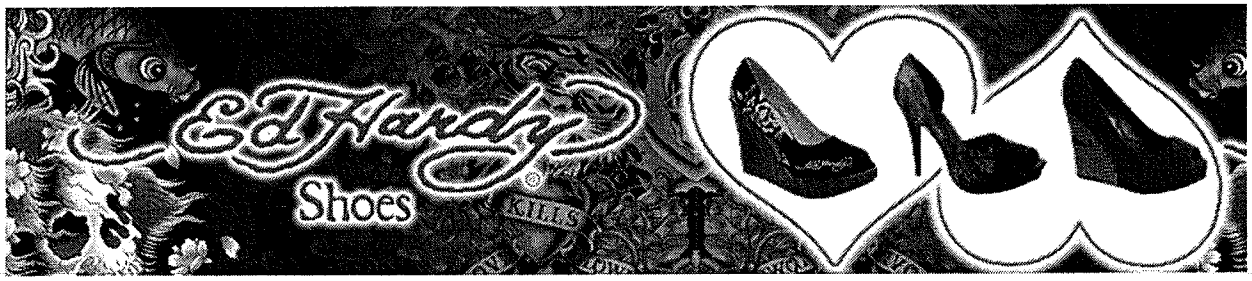
Twitter

Womens Shoe Sale

Fashion Blog

Kensie Girl

Ed Hardy Shoes



Leggings

WhataPair.com Blog With Attitude

Jellypop Daydream Sandal
We are so excited here at www.whatapair.com, to have Jellypop shoes in our home, with all their chic and sassy styles. I love the fact that Jellypop shoes are not only comfortable, but they are also a...

Sugar Floaties
The Sugar Floaties are back, available in black, turquoise and pink Sugar Floaties are fun flip flops that float and are so comfortable that when I wear them I feel like I am walking on a cloud. Sugar...

Haflinger Slippers and Clogs
Who doesn't love a pair of comfy warm slippers? Halflinger has the perfect ones for you, and I am sure that once you slip your feet into them you are going to fall in love with their comfort jus...

FedEx service marks used by permission.

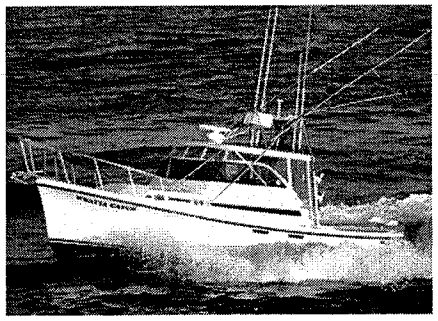
Shopping at What a Pair is safe. Read our Security Statement & Privacy Policy

© COPYRIGHT 2003 - 2010 ALL RIGHTS RESERVED What a Pair!

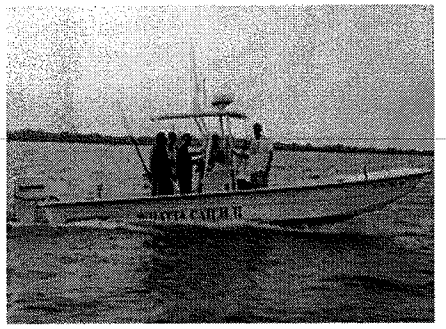
Exhibit F26

"When showing off your catch of the day, WHATTA CATCH is what everyone will say!"

Home



The "Whatta Catch" is a full service Charter Boat sailing out of Mill Basin, Brooklyn, NY. It is a 33 foot Custom Built JC with twin diesels for added safety. It has all the latest electronics and safety equipment. The Whatta Catch has enough seating to accommodate up to 6 passengers and a private bathroom to keep everyone comfortable.



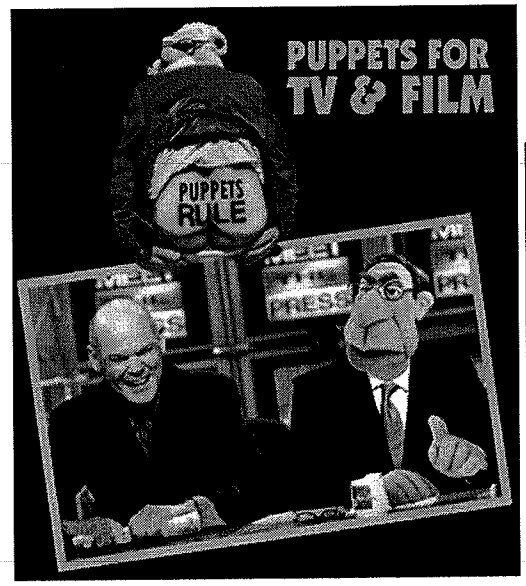
The "Whatta Catch II" is a 25 foot DLX Extra Wide Carolina Skiff. It is powered with a 200hp Evinrude E-Tec which cruises at 35 kts. It's 9 foot beam adds greater stability to an already stable fishing platform. It has all the latest Electronics and safety equipment. This skiff can fish the shallows of the back bays to the open Ocean.

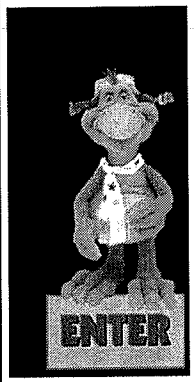
Home | About Us | Charters | Photos | Comments | Links | Weather | Contact Us | Directions

Whatta Catch Sport Fishing
Mill Basin
Brooklyn, NY 11234

© 2007 - 2011 Whatta Catch Sport Fishing - All Rights Reserved!

Exhibit F27





TELEVISION & FILM
PUPPET DESIGN
•
CONSTRUCTION

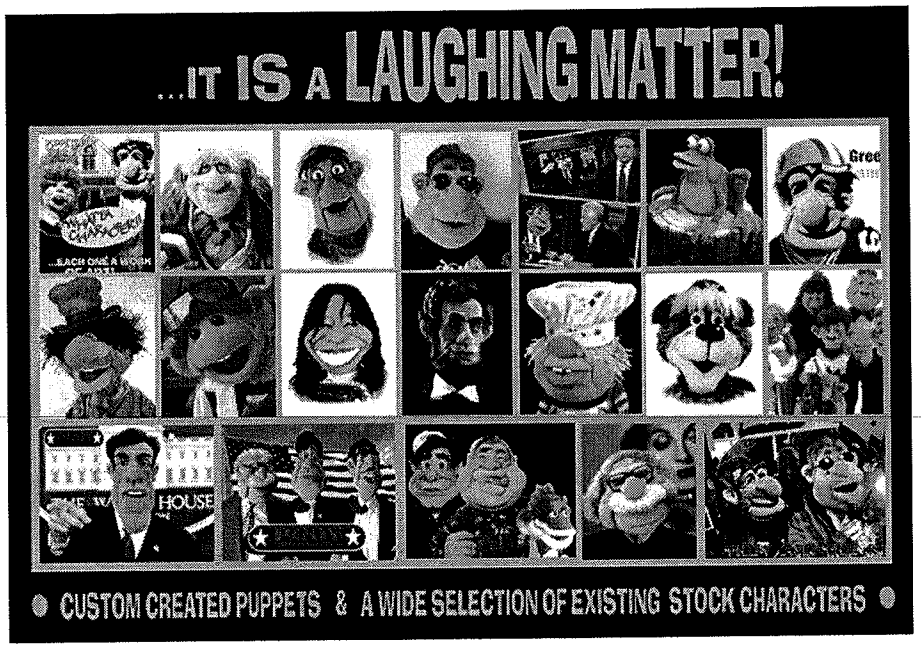
CHARACTER CREATION
•
ILLUSTRATION

SCULPTED COLLECTIBLES
•
MODELS

VIEW ALL DEMO REELS

GALLERY

CONTACT US

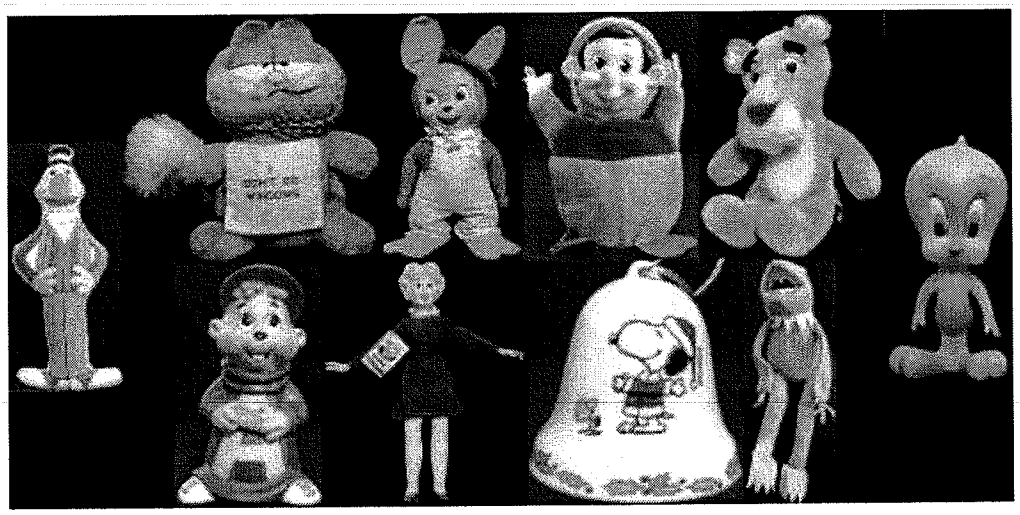


Click here to watch Episodes of PGOV...PUPPET GOVERNMENT #1 video on YouTube.

whattcharacter hand puppets for TV & film, puppet design, character creation, puppet construction, unique hand-sculpted puppets, video production, commercial production

Exhibit F28

What a Character!



Welcome to the What a Character! web site!

Inside, you will find one of our largest-ever inventories, currently consisting of 8,286 toys and other memorabilia from some of your favorite television programs, comic strips, and cartoons of all time. What a Character! specializes in figural items (things that look great sitting on a shelf) from the 1940s through the 1980s. We get older items in stock whenever possible; we have some newer items in stock from time to time; and we definitely have things other than figural items in stock at all times. Feel free to browse through our merchandise--you just may find something that you can't live without!!

What a Character! has been in business since 1997, and does an extensive amount of mail order business, and we will ship our merchandise anywhere in the world. We're happy to do business with new customers and, of course, we welcome the continued interest of our many previous customers and collector friends.

NEW ITEMS IN STOCK

We get an average of 40-50 new items in stock each week. There's almost

always something new (or should we say, something old?) in our inventory. So you might want to bookmark this page, and check back with us from time to time. Items that have been acquired recently (generally within the past 30 days or so) are marked with the following insignia:

This marking will appear BEFORE the listings of new items, immediately below the double red lines that separate our entries.

WE MAY BUY ITEMS FROM YOU

We're *always* looking for new items for our business, too. If you have comic, character, or cartoon-related items that you wish to sell, feel free to contact us to discuss the possibility of having us buy them from you. Regardless of whether you're looking to get rid of a single item or an entire collection of goodies, we might be interested in acquiring your things. Contact hugh@whatacharacter.com with information about any item(s) that you are considering selling.

Please note: In order to purchase items from you, we need to: (1) be able to see clear, representative pictures of the item(s) so that we know exactly what we might be buying, (2) have accurate information about the specific condition of the item(s) you want to sell, and (3) know how much you want for the item(s) in question. ***If you do not provide all three of these to us, we cannot make an acquisition; and time constraints prevent us from replying such inquiries unless all three are provided.*** If you do not have the ability to get scanned pictures to us for step #1, we have made arrangements with a few people to send us the item(s) "on spec" before we make a final commitment to purchase. That allows us to inspect the item(s) and make an informed purchasing decision.

APPRAISALS

We get many emails from people asking us what their own items are worth. While we are happy to answer questions like these, you should note that doing an appraisal takes time . . . both to reply to the inquiry itself and sometimes to research the item(s) in question. Accordingly, there is a $20 fee for each item that you wish to have appraised.

If you wish to have us appraise an item for you, please contact us at hugh@whatacharacter.com to initiate the process and to receive payment instructions. Please note that we are knowledgeable about many different types of items, but we are NOT professional appraisers. To obtain the most reliable assessments of what your items are worth, we recommend that you (1) seek multiple appraisals from different appraisers/consultants and that you (2) consult professional appraisers to assess the value of any item thought to be of considerable value.

OUR COLLECTOR'S MAILING LIST

If you are a collector of something specific and would like to be added to our "collectors and what they collect" mailing list, please send an email to hugh@whatacharacter.com. In that email, please provide the following information and we'll be happy to add your name and collecting information:

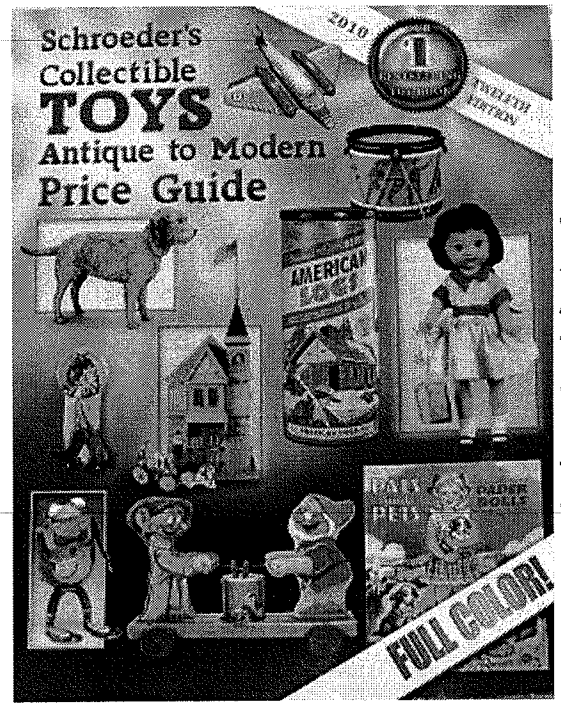
- Your full name
- Your full mailing address (where you would ordinarily want to have us ship your items)
- Your telephone number (in case we have any questions about your information, inquiry, or order)--This information will **NOT** be shared with **ANY** other sources; it is for our internal usage **ONLY.**
- Your email address (This is our usual mode of contact.)
- What you collect
- Any specific item(s) that you ***REALLY*** want to find for your collection, and your price ceiling on this/these item(s) (We're always happy to search for specific items of interest to collectors on our list. Whenever possible, we'll offer you your "gotta have it" items at prices below your ceiling price.)

HEY, TAKE A LOOK AT THIS!!

Not long ago, representatives from the book publishers, Dorling Kindersley Limited and The Price Guide Company Limited, contacted us and asked our permission to use some of our items in their new collectibles price guide book. We

granted their request and, lo and behold, they decided to feature several of our collectibles in the book. The price guide, entitled *Collectibles Price Guide 2006*, was written by Judith Miller (with Mark Hill). Check it out . . . and check out some of our contributions to the book! If you happen to have the previous edition of the book, many of our items were shown in that version, too.

WHILE YOU'RE LOOKING AT THAT, CHECK OUT THIS TOO!!



Recently, we were contacted about contributing to the new 2010 edition of *Schroeder's Collectible Toys Antique to Modern Price Guide*. The publishers decided to use a number of photographs from our extensive inventory in their book, and they did a great job with the photography in the final publication. Check out our contributions to the book when you have a chance.

SPECIAL NOTE

Please remember to include the ZIP code where your package will be sent along with your initial inquiry about items that interest you, so that we can quote you an appropriate shipping charge!! Doing so enables us to provide you with the most accurate shipping cost information we can, as quickly as possible!

This page was last updated on 03/01/11.

You are visitor number 137732 to this page since January 1, 2001.

Exhibit G1

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-03-25 14:48:15 ET

Serial Number: 85178487 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

(words only): FRANCO'S FRANCO'S WHATTAPIZZA

Standard Character claim: No

Current Status: Review prior to publication completed.

Date of Status: 2011-03-16

Filing Date: 2010-11-16

The Information will be/was published in the Official Gazette on 2011-04-19

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 102

Attorney Assigned:
RINKER ANTHONY MICHAEL

Current Location: 650 -Publication And Issue Section

Date In Location: 2011-03-16

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Franco's Pizza, LLC

Address:
Franco's Pizza, LLC
Suite 104 1365 Grayson Hwy
Lawrenceville, GA 30017
United States
Legal Entity Type: Limited Liability Company
State or Country Where Organized: Georgia
Phone Number: 678-407-1155

GOODS AND/OR SERVICES

International Class: 025
Class Status: Active
T-shirts
Basis: 1(a)
First Use Date: 2010-10-05
First Use in Commerce Date: 2010-10-15

International Class: 043
Class Status: Active
Pizza parlors
Basis: 1(a)
First Use Date: 2010-10-05
First Use in Commerce Date: 2010-10-05

ADDITIONAL INFORMATION

Color(s) Claimed: The color(s) brown, white, red, black, blue, and light tan is/are claimed as a feature of the mark.

Description of Mark: The mark consists of word "Franco's" appearing in red with a black shadow above a stylized drawing of a smiling chef with light tan skin and black hair that is tossing a light tan pizza dough in the air above his head; the chef is wearing a white hat, a white shirt with cuffs and a black button, a blue apron with the word "Franco's" on the chest area appearing in red, and brown boots; the term "WhattaPizza" appears in red with a black shadow below the chef design

Design Search Code(s):
02.01.20 - Bakers (men); Butchers (men); Chefs (men); Men, butchers, chefs, and bakers
08.01.12 - Pizza
09.03.06 - Camisoles; Exercise clothes, sweatshirts; Jerseys; Shirts; Sweatshirts; Tank tops
09.03.14 - Aprons; Smock
09.05.06 - Chef's Hat
26.17.09 - Bands, curved; Bars, curved; Curved line(s), band(s) or bar(s); Lines, curved

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2011-03-16 - Law Office Publication Review Completed

2011-03-15 - Assigned To LIE

2011-02-25 - Approved for Pub - Principal Register (Initial exam)

2011-02-25 - Examiner's Amendment Entered

2011-02-25 - Notification Of Examiners Amendment E-Mailed

2011-02-25 - Examiners amendment e-mailed

2011-02-25 - Examiners Amendment -Written

2011-02-24 - Assigned To Examiner

2010-11-23 - Notice Of Design Search Code And Pseudo Mark Mailed

2010-11-22 - New Application Office Supplied Data Entered In Tram

2010-11-19 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent
FRANCO'S PIZZA, LLC
FRANCO'S PIZZA, LLC
1365 GRAYSON HWY STE 104
LAWRENCEVILLE, GA 30045-6760
Phone Number: 678-407-1155

Trademark Snap Shot Publication & Issue Review Stylesheet

(Table presents the data on Publication & Issue Review Complete)

OVERVIEW

SERIAL NUMBER	85178487	FILING DATE	11/16/2010
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	RINKER, ANTHONY MICHAE	L.O. ASSIGNED	102

PUB INFORMATION

RUN DATE	03/17/2011
PUB DATE	04/19/2011
STATUS	681-PUBLICATION/ISSUE REVIEW COMPLETE
STATUS DATE	03/16/2011
LITERAL MARK ELEMENT	FRANCO'S FRANCO'S WHATTAPIZZA

DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

MARK DATA

STANDARD CHARACTER MARK	NO
LITERAL MARK ELEMENT	FRANCO'S FRANCO'S WHATTAPIZZA
MARK DRAWING CODE	3-AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/LETTER(S)/NUMBER(S)
COLOR DRAWING FLAG	YES

CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Franco's Pizza, LLC
ADDRESS	Suite 104 1365 Grayson Hwy Lawrenceville, GA 30017
ENTITY	16-LTD LIAB CO
CITIZENSHIP	Georgia

GOODS AND SERVICES

INTERNATIONAL CLASS	025
DESCRIPTION TEXT	T-shirts
INTERNATIONAL CLASS	043
DESCRIPTION TEXT	Pizza parlors

GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	025	FIRST USE DATE	10/05/2010	FIRST USE IN COMMERCE DATE	10/15/2010	CLASS STATUS	6-ACTIVE
INTERNATIONAL CLASS	043	FIRST USE DATE	10/05/2010	FIRST USE IN COMMERCE DATE	10/05/2010	CLASS STATUS	6-ACTIVE

MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
COLORS CLAIMED STATEMENT	The color(s) brown, white, red, black, blue, and light tan is/are claimed as a feature of the mark.
DESCRIPTION OF MARK	The mark consists of word "Franco's" appearing in red with a black shadow above a stylized drawing of a smiling chef with light tan skin and black hair that is tossing a light tan pizza

	dough in the air above his head; the chef is wearing a white hat, a white shirt with cuffs and a black button, a blue apron with the word "Franco's" on the chest area appearing in red, and brown boots; the term "WhattaPizza" appears in red with a black shadow below the chef design
PSEUDO MARK	FRANCO'S FRANCO'S WHAT A PIZZA

PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
03/16/2011	PREV	O	LAW OFFICE PUBLICATION REVIEW COMPLETED	011
03/15/2011	ALIE	A	ASSIGNED TO LIE	010
02/25/2011	CNSA	O	APPROVED FOR PUB - PRINCIPAL REGISTER	009
02/25/2011	XAEC	I	EXAMINER'S AMENDMENT ENTERED	008
02/25/2011	GNEN	O	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	007
02/25/2011	GNEA	F	EXAMINERS AMENDMENT E-MAILED	006
02/25/2011	CNEA	R	EXAMINERS AMENDMENT -WRITTEN	005
02/24/2011	DOCK	D	ASSIGNED TO EXAMINER	004
11/23/2010	MDSM	O	NOTICE OF DESIGN SEARCH CODE AND PSEUDO MARK MAILED	003
11/22/2010	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	002
11/19/2010	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	NONE
CORRESPONDENCE ADDRESS	FRANCO'S PIZZA, LLC FRANCO'S PIZZA, LLC 1365 GRAYSON HWY STE 104 LAWRENCEVILLE, GA 30045-6760
DOMESTIC REPRESENTATIVE	NONE

*** User:arinker ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	2334	N/A	0	0	0:01	*fran{"ckqx"}* [BI,TI] not dead[ld]
02	12811	N/A	0	0	0:02	(*what* *wat*) [BI,TI] not dead[ld]
03	2360	N/A	0	0	0:01	*p{"iey"}zz* [BI,TI] not dead[ld]
04	15	0	15	13	0:01	2 and 3
05	1	0	1	1	0:01	1 and 4
06	983	N/A	3	3	0:01	1 and "025"[CC] not dead[ld]
07	618	0	8	5	0:02	6 not (*chise* *cisco*) [BI,TI] not dead[ld]
08	1132	N/A	0	0	0:02	1 and "043"[CC] not dead[ld]
09	696	N/A	0	0	0:01	8 not (*chise* *cisco*) [BI,TI] not dead[ld]
10	351	0	1	2	0:01	9 not 7
11	3483	N/A	0	0	0:01	020120
12	1142	N/A	0	0	0:02	080112
13	1571	N/A	0	0	0:01	090306
14	392	N/A	0	0	0:01	090314
15	2724	N/A	0	0	0:01	090506
16	64915	N/A	0	0	0:01	261709
17	1	0	1	1	0:02	11 and 12 and 13 and 14 and 15
18	18	0	7	18	0:01	(11 12 13 14 15) and (1 4)

Session started 2/24/2011 5:40:57 PM
Session finished 2/24/2011 5:51:57 PM
Total search duration 0 minutes 23 seconds
Session duration 11 minutes 0 seconds
Defaut NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 85178487

Exhibit G2

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-03-25 14:50:16 ET

Serial Number: 76527826 Assignment Information Trademark Document Retrieval

Registration Number: 2898947

Mark (words only): WHAT A DISH

Standard Character claim: No

Current Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Date of Status: 2010-05-18

Filing Date: 2003-06-26

Transformed into a National Application: No

Registration Date: 2004-11-02

Register: Principal

Law Office Assigned: LAW OFFICE 106

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2010-05-18

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Rajewski, Cheryl

Address:
Rajewski, Cheryl
306 Springfield Avenue
Summit, NJ 07901
United States
Legal Entity Type: Individual
Country of Citizenship: United States

GOODS AND/OR SERVICES

International Class: 035
Class Status: Active
Retail gourmet food shops featuring, namely, prepared foods to go
Basis: 1(a)
First Use Date: 1991-10-00
First Use in Commerce Date: 1999-06-03

International Class: 043
Class Status: Active
catering services
Basis: 1(a)
First Use Date: 1991-10-00
First Use in Commerce Date: 1999-06-03

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-05-18 - Section 8 (6-year) accepted & Section 15 acknowledged

2010-04-21 - TEAS Response To Office Action-Post Reg Received

2010-04-20 - FAX RECEIVED

2010-03-26 - Review Of Correspondence Complete

2010-03-19 - Review Of Correspondence Complete

2010-03-15 - FAX RECEIVED

2010-02-24 - FAX RECEIVED

2010-02-24 - FAX RECEIVED

2010-02-24 - FAX RECEIVED

2010-02-24 - FAX RECEIVED

2010-02-24 - FAX RECEIVED

2010-02-11 - Post Registration action mailed Section 8 & 15

2010-02-11 - Case Assigned To Post Registration Paralegal

2010-02-10 - Assignment Of Ownership Not Updated Automatically

2010-02-02 - TEAS Section 8 & 15 Received

2010-01-13 - Assignment Of Ownership Not Updated Automatically

2004-11-02 - Registered - Principal Register

2004-09-03 - Case File In TICRS

2004-08-18 - Extension Of Time To Oppose Process - Terminated

2004-04-29 - Extension Of Time To Oppose Received

2004-04-13 - Published for opposition

2004-03-24 - Notice of publication

2003-12-29 - Approved for Pub - Principal Register (Initial exam)

2003-12-15 - Examiner's amendment mailed

2003-12-03 - Non-final action mailed

2003-12-01 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
MICHAEL ZINNA

Correspondent
MICHAEL ZINNA
WARD & OLIVO
382 SPRINGFIELD AVENUE
SUMMIT NJ 07901
Phone Number: 908-277-3333
Fax Number: 908-277-6373

Int. Cls.: 35 and 43

Prior U.S. Cls.: 100, 101 and 102

United States Patent and Trademark Office

Reg. No. 2,898,947

Registered Nov. 2, 2004

SERVICE MARK
PRINCIPAL REGISTER

WHAT A DISH

RAJEWSKI, CHERYL (UNITED STATES INDIVIDUAL)
306 SPRINGFIELD AVENUE
SUMMIT, NJ 07901 AND
DOCARMO, RUI (UNITED STATES INDIVIDUAL)
306 SPRINGFIELD AVENUE
SUMMIT, NJ 07901

FOR: RETAIL GOURMET FOOD SHOPS FEATURING, NAMELY, PREPARED FOODS TO GO , IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-0-1991; IN COMMERCE 6-3-1999.

FOR: CATERING SERVICES, IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 10-0-1991; IN COMMERCE 6-3-1999.

SER. NO. 76-527,826, FILED 6-26-2003.

NAAKWAMA ANKRAH, EXAMINING ATTORNEY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Trademarks
2900 Crystal Drive
Arlington , VA 22202-3514
www.uspto.gov

Mar 24, 2004

NOTICE OF PUBLICATION UNDER 12(a)

1. Serial No.:
76/527,826

2. Mark:
WHAT A DISH

3. International Class(es):
35, 43

4. Publication Date:
Apr 13, 2004

5. Applicant:
Rajewski, Cheryl
DoCarmo, Rui

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the Official Gazette on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a certificate of registration.

Copies of the trademark portion of the Official Gazette containing the publication of the mark may be obtained from:

The Superintendent of Documents
U.S. Government Printing Office
PO Box 371954
Pittsburgh, PA 15250-7954
Phone: (202) 512-1800

By direction of the Commissioner.

Correspondence Address:

MICHAEL ZINNA
WARD & OLIVO
382 SPRINGFIELD AVENUE
SUMMIT NJ 07901

TMP&I

*** User: nankrah ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	1	0	1	0	0:01	76527826[SN]
02	4069	N/A	0	0	0:01	*what*[bi,ti]
03	1228	N/A	0	0	0:01	*d{"iy"}sh*[bi,ti]
04	5	1	4	1	0:01	2 and 3

Session started 12/1/03 2:25:45 PM
Session finished 12/1/03 2:26:42 PM
Total search duration 0 minutes 4 seconds
Session duration 0 minutes 57 seconds

Default NEAR limit= 1 ADJ limit= 1

Sent to TICRS as Serial Number: 76527826

Exhibit G3

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-03-25 14:52:28 ET

Serial Number: 76527828 Assignment Information Trademark Document Retrieval

Registration Number: 2898948

Mark

(words only): WHAT A DISH

Standard Character claim: No

Current Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Date of Status: 2010-03-31

Filing Date: 2003-06-26

Transformed into a National Application: No

Registration Date: 2004-11-02

Register: Principal

Law Office Assigned: LAW OFFICE 106

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: L60 -TMEG Law Office 106

Date In Location: 2010-03-31

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. RAJEWSKI, CHERYL

Address:
RAJEWSKI, CHERYL
306 SPRINGFIELD AVENUE
SUMMIT, NJ 07901
United States
Legal Entity Type: Individual
Country of Citizenship: United States

GOODS AND/OR SERVICES

International Class: 035
Class Status: Active
Retail gourmet food shops featuring, namely, prepared foods to go
Basis: 1(a)
First Use Date: 1991-10-00
First Use in Commerce Date: 1999-06-03

International Class: 043
Class Status: Active
catering services
Basis: 1(a)
First Use Date: 1991-10-00
First Use in Commerce Date: 1999-06-03

ADDITIONAL INFORMATION

Design Search Code(s):
11.03.09 - Paper plates, empty; Plates, dinnerware, empty
26.03.28 - Miscellaneous designs with overall oval shape, including amoeba-like shapes and irregular ovals; Oval shape (miscellaneous overall shape)
26.17.09 - Bands, curved; Bars, curved; Curved line(s), band(s) or bar(s); Lines, curved

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-03-31 - Section 8 (6-year) accepted & Section 15 acknowledged

2010-03-31 - Case Assigned To Post Registration Paralegal

2010-03-17 - TEAS Section 8 & 15 Received

2010-03-15 - PAPER RECEIVED

2010-03-03 - Assignment Of Ownership Not Updated Automatically

2010-01-13 - Assignment Of Ownership Not Updated Automatically

2004-11-02 - Registered - Principal Register

2004-09-03 - Case File In TICRS

2004-08-18 - Extension Of Time To Oppose Process - Terminated

2004-05-04 - Extension Of Time To Oppose Received

2004-04-06 - Published for opposition

2004-03-17 - Notice of publication

2003-12-29 - Approved for Pub - Principal Register (Initial exam)

2003-12-15 - Examiner's amendment mailed

2003-12-03 - Non-final action mailed

2003-12-01 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
MICHAEL ZINNA

Correspondent
MICHAEL ZINNA
WARD & OLIVO
382 SPRINGFIELD AVENUE
SUMMIT NJ 07901
Phone Number: 908-277-3333
Fax Number: 908-277-6373

Int. Cls.: 35 and 43

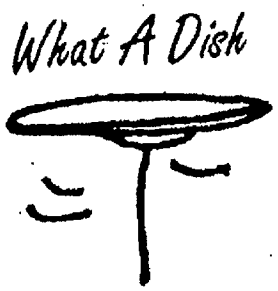
Prior U.S. Cls.: 100, 101 and 102

Reg. No. 2,898,948

United States Patent and Trademark Office

Registered Nov. 2, 2004

SERVICE MARK
PRINCIPAL REGISTER



RAJEWSKI, CHERYL (UNITED STATES INDIVIDUAL)
306 SPRINGFIELD AVENUE
SUMMIT, NJ 07901 AND
DOCARMO, RUI (UNITED STATES INDIVIDUAL)
306 SPRINGFIELD AVENUE
SUMMIT, NJ 07901

FOR: RETAIL GOURMET FOOD SHOPS FEATURING, NAMELY, PREPARED FOODS TO GO , IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-0-1991; IN COMMERCE 6-3-1999.

FOR: CATERING SERVICES, IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 10-0-1991; IN COMMERCE 6-3-1999.

SER. NO. 76-527,828, FILED 6-26-2003.

NAAKWAMA ANKRAH, EXAMINING ATTORNEY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Trademarks
2900 Crystal Drive
Arlington , VA 22202-3514
www.uspto.gov

Mar 17, 2004

NOTICE OF PUBLICATION UNDER 12(a)

1. Serial No.:
76/527,828

2. Mark:
WHAT A DISH
and design

3. International Class(es):
35, 43

4. Publication Date:
Apr 6, 2004

5. Applicant:
Rajewski, Cheryl
DoCarmo, Rui

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the Official Gazette on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a certificate of registration.

Copies of the trademark portion of the Official Gazette containing the publication of the mark may be obtained from:

The Superintendent of Documents
U.S. Government Printing Office
PO Box 371954
Pittsburgh, PA 15250-7954
Phone: (202) 512-1800

By direction of the Commissioner.

Correspondence Address:

MICHAEL ZINNA
WARD & OLIVO
382 SPRINGFIELD AVENUE
SUMMIT NJ 07901

TMP&I

*** User: nankrah ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	1	0	1	1	0:01	76527828[SN]
02	4069	N/A	0	0	0:02	*what*[bi,ti]
03	1228	N/A	0	0	0:01	*d{"iy"}sh*[bi,ti]
04	5	1	4	1	0:01	2 and 3
05	332	185	5	147	0:01	110309[dc]
06	7169	N/A	0	0	0:01	260328[dc]
07	29154	N/A	0	0	0:01	261709[dc]
08	1	0	1	1	0:01	5 and (6 or7)
09	404	N/A	0	0	0:01	6 and 7
10	270	N/A	3	200	0:05	9 not dead[ld]

Session started 12/1/03 2:39:50 PM
Session finished 12/1/03 2:44:38 PM
Total search duration 0 minutes 15 seconds
Session duration 4 minutes 48 seconds

Default NEAR limit= 1 ADJ limit= 1

Sent to TICRS as Serial Number: 76527828

Exhibit G4

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-03-25 14:54:33 ET

Serial Number: 85018316 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

(words only): WHAT A PIZZA WHAT A PRICE

Standard Character claim: No

Current Status: Review prior to publication completed.

Date of Status: 2011-03-04

Filing Date: 2010-04-20

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

The Information will be/was published in the Official Gazette on 2011-04-12

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 109

Attorney Assigned:
STRUCK ROBERT J

Current Location: 650 -Publication And Issue Section

Date In Location: 2011-03-04

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. What a Pizza What a Price Franchising, LLC

Address:
What a Pizza What a Price Franchising, LLC
P.O. Box 540
Vanceburg, KY 41179
United States
Legal Entity Type: Limited Liability Company
State or Country Where Organized: Kentucky

GOODS AND/OR SERVICES

International Class: 043
Class Status: Active
Restaurant services; Take-out restaurant services
Basis: 1(a)
First Use Date: 2007-01-31
First Use in Commerce Date: 2007-01-31

ADDITIONAL INFORMATION

Color(s) Claimed: Color is not claimed as a feature of the mark.

Description of Mark: The mark consists of the words "WHATA PIZZA WHAT A PRICE" separated by a man with a large handlebar moustache wearing a tall baker's cap and an apron, holding a pizza in his upturned right hand with his left hand wherein "WHAT A PIZZA" appears above and offset from "WHAT A PRICE".

Design Search Code(s):
02.01.38 - Aprons, men wearing, excluding bakers, butchers, chefs; Men wearing aprons, excluding bakers, butchers, chefs; Merchants (men); Store clerks (men)
08.01.12 - Pizza

Prior Registration Number(s):
3797426

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2011-03-04 - Law Office Publication Review Completed

2011-03-04 - Assigned To LIE

2011-02-04 - Approved for Pub - Principal Register (Initial exam)

2011-01-28 - Teas/Email Correspondence Entered

2011-01-28 - Communication received from applicant

2011-01-28 - TEAS Response to Office Action Received

2010-11-08 - Assigned To Examiner

2010-07-28 - Notification Of Non-Final Action E-Mailed

2010-07-28 - Non-final action e-mailed

2010-07-28 - Non-Final Action Written

2010-07-28 - Assigned To Examiner

2010-04-27 - Notice Of Design Search Code Mailed

2010-04-26 - New Application Office Supplied Data Entered In Tram

2010-04-23 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Jeffrey B. Sladkus, Esq.

Correspondent
JEFFREY B. SLADKUS, ESQ.
THE SLADKUS LAW GROUP
1827 POWERS FERRY RD SE BLDG 6
ATLANTA, GA 30339-5687
Phone Number: 404-252-0900
Fax Number: 404-252-0970

Trademark Snap Shot Publication & Issue Review Stylesheet

(Table presents the data on Publication & Issue Review Complete)

OVERVIEW

SERIAL NUMBER	85018316	FILING DATE	04/20/2010
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	SERVICE MARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	STRUCK, ROBERT J	L.O. ASSIGNED	109

PUB INFORMATION

RUN DATE	03/05/2011
PUB DATE	N/A
STATUS	681-PUBLICATION/ISSUE REVIEW COMPLETE
STATUS DATE	03/04/2011
LITERAL MARK ELEMENT	WHAT A PIZZA WHAT A PRICE

DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

MARK DATA

STANDARD CHARACTER MARK	NO
LITERAL MARK ELEMENT	WHAT A PIZZA WHAT A PRICE
MARK DRAWING CODE	3-AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/LETTER(S)/NUMBER(S)
COLOR DRAWING FLAG	NO

CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	What a Pizza What a Price Franchising, LLC
ADDRESS	P.O. Box 540 Vanceburg, KY 41179
ENTITY	16-LTD LIAB CO
CITIZENSHIP	Kentucky

GOODS AND SERVICES

INTERNATIONAL CLASS	043
DESCRIPTION TEXT	Restaurant services; Take-out restaurant services

GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	043	FIRST USE DATE	01/31/2007	FIRST USE IN COMMERCE DATE	01/31/2007	CLASS STATUS	6-ACTIVE

MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
COLORS CLAIMED STATEMENT	Color is not claimed as a feature of the mark.
DESCRIPTION OF MARK	The mark consists of the words "WHATA PIZZA WHAT A PRICE" separated by a man with a large handlebar moustache wearing a tall baker's cap and an apron, holding a pizza in his upturned right hand with his left hand wherein "WHAT A PIZZA" appears above and offset from "WHAT A PRICE".
OWNER OF US REG NOS	3797426

PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM

03/04/2011	PREV	O	LAW OFFICE PUBLICATION REVIEW COMPLETED	014
03/04/2011	ALIE	A	ASSIGNED TO LIE	013
02/04/2011	CNSA	O	APPROVED FOR PUB - PRINCIPAL REGISTER	012
01/28/2011	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	011
01/28/2011	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	010
01/28/2011	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	009
11/08/2010	DOCK	D	ASSIGNED TO EXAMINER	008
07/28/2010	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	007
07/28/2010	GNRT	F	NON-FINAL ACTION E-MAILED	006
07/28/2010	CNRT	R	NON-FINAL ACTION WRITTEN	005
07/28/2010	DOCK	D	ASSIGNED TO EXAMINER	004
04/27/2010	MDSC	O	NOTICE OF DESIGN SEARCH CODE MAILED	003
04/26/2010	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	002
04/23/2010	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	Jeffrey B. Sladkus, Esq.
CORRESPONDENCE ADDRESS	JEFFREY B. SLADKUS, ESQ. THE SLADKUS LAW GROUP 1827 POWERS FERRY RD SE BLDG 6 ATLANTA, GA 30339-5687
DOMESTIC REPRESENTATIVE	NONE

WhataPizza
WhataPrice

*** User:asaunders ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	1	0	1	1	0:02	85018316[SN]
02	1999	N/A	0	0	0:03	*pizza*[bi,ti] not dead[ld]
03	1413	N/A	0	0	0:04	*price*[bi,ti] not dead[ld]
04	1071	N/A	0	0	0:03	020120[DC] not dead[ld]
05	1161	N/A	0	0	0:04	090506[dc] not dead[ld]
06	1109	N/A	0	0	0:02	080112[DC]
07	293	0	236	291	0:01	2 and (3 or 4 or 5 or 6)
08	2	0	2	2	0:02	3 and (4 or 5 or 6)
09	449	0	5	449	0:01	4 and (5 or 6)
10	44	0	5	44	0:01	(5 and 6)
11	6	0	6	4	0:01	"what a"[bi,ti] and 2
12	2	0	2	2	0:01	"what a"[bi,ti] and 3

Session started 7/28/2010 10:26:19 PM
Session finished 7/28/2010 10:40:40 PM
Total search duration 0 minutes 25 seconds
Session duration 14 minutes 21 seconds
Defaut NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 85018316

*** User:asaunders ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	1	0	1	1	0:02	85018316[SN]
02	1999	N/A	0	0	0:03	*pizza*[bi,ti] not dead[ld]
03	1413	N/A	0	0	0:04	*price*[bi,ti] not dead[ld]
04	1071	N/A	0	0	0:03	020120[DC] not dead[ld]
05	1161	N/A	0	0	0:04	090506[dc] not dead[ld]
06	1109	N/A	0	0	0:02	080112[DC]
07	293	0	236	291	0:01	2 and (3 or 4 or 5 or 6)
08	2	0	2	2	0:02	3 and (4 or 5 or 6)
09	449	0	5	449	0:01	4 and (5 or 6)
10	44	0	5	44	0:01	(5 and 6)
11	6	0	6	4	0:01	"what a"[bi,ti] and 2
12	2	0	2	2	0:01	"what a"[bi,ti] and 3

Session started 7/28/2010 10:26:19 PM
Session finished 7/28/2010 10:47:45 PM
Total search duration 0 minutes 25 seconds
Session duration 21 minutes 26 seconds
Defaut NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 85018316

Exhibit G5

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-03-28 13:04:02 ET

Serial Number: 76383004 Assignment Information Trademark Document Retrieval

Registration Number: 2842218

Mark

(words only): WHAT A LOT A PIZZA

Standard Character claim: No

Current Status: A cancellation proceeding is pending at the Trademark Trial and Appeal Board. For further information, see TTABVUE on the Trademark Trial and Appeal Board web page.

Date of Status: 2010-08-17

Filing Date: 2002-03-18

Transformed into a National Application: No

Registration Date: 2004-05-18

Register: Principal

Law Office Assigned: LAW OFFICE 106

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: L60 -TMEG Law Office 106

Date In Location: 2010-11-26

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. WALA INDUSTRIES, INC.

Address:
WALA INDUSTRIES, INC.
7011 WARNER AVENUE UNIT M
HUNTINGTON BEACH, CA 92647
United States
Legal Entity Type: Corporation
State or Country of Incorporation: California
Phone Number: (714) 245-0210
Fax Number: 714) 973-0244

GOODS AND/OR SERVICES

International Class: 043
Class Status: Active
Carry-out restaurant services
Basis: 1(a)
First Use Date: 1992-08-01
First Use in Commerce Date: 1992-08-01

ADDITIONAL INFORMATION

Disclaimer: "PIZZA"

Description of Mark: The mark consists, in part, of the words, "what a lot a pizza", the design of a banner on top of a pizza, and design. The color red appears on the top of the pizza where the sauce and pepperoni designs are shown, on the words, "what a lot a pizza", and on the horizontal lines, star design and outline of the banner design.

Lining and Stippling: The lining and stippling on the drawing are features of the mark and do not indicate color.

Design Search Code(s):
01.01.09 - Stars, two; Two stars
01.01.13 - Stars - multiple stars with five points
08.01.12 - Pizza
24.09.07 - Advertising, banners; Banners
26.07.13 - Diamonds, exactly two diamonds; Two diamonds
26.07.21 - Diamonds that are completely or partially shaded

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-11-26 - Section 8 (6-year) accepted

2010-11-17 - Section 8 (6-year) filed

2010-11-17 - PAPER RECEIVED

2010-10-04 - Case Assigned To Post Registration Paralegal

2010-10-03 - TEAS Section 8 Received

2010-08-17 - Cancellation Instituted No. 999999

2004-05-18 - Registered - Principal Register

2004-02-24 - Published for opposition

2004-02-04 - Notice of publication

2003-11-24 - Approved for Pub - Principal Register (Initial exam)

2003-11-12 - EXAMINERS AMENDMENT E-MAILED

2003-11-14 - Email Received

2003-10-20 - Assigned To Examiner

2003-10-18 - Case File In TICRS

2003-10-07 - Petition To Revive-Granted

2003-07-03 - Petition To Revive-Received

2003-07-03 - PAPER RECEIVED

2003-05-09 - Abandonment - Failure To Respond Or Late Response

2002-09-06 - Non-final action mailed

2002-07-12 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
William L. Chapin

Correspondent
WILLIAM L CHAPIN
LAW OFFICES OF WILLIAM L CHAPIN
16791 Sea Witch Lane
HUNTINGTON BEACH, CA 92649
Phone Number: (714) 625-3570
Fax Number: (714) 625-3580

Side - 1

NOTICE OF ACCEPTANCE OF §8 DECLARATION

MAILING DATE: Nov 26, 2010

The declaration filed in connection with the registration identified below meets the requirements of Section 8 of the Trademark Act, 15 U.S.C. §1058. The declaration is accepted and the registration remains in force.For further information about this notice, visit our website at: http://www.uspto.gov. To review information regarding the referenced registration, go to http://tarr.uspto.gov.

REG NUMBER:	**2842218**
MARK:	**WHAT A LOT A PIZZA AND DESIGN**
OWNER:	**WALA INDUSTRIES, INC.**

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA, VA 22313-1451

FIRST-CLASS
MAIL
U.S POSTAGE
PAID

WILLIAM L CHAPIN
LAW OFFICES OF WILLIAM L CHAPIN
16791 Sea Witch Lane
HUNTINGTON BEACH, CA 92649

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

Reg. No. 2,842,218

United States Patent and Trademark Office

Registered May 18, 2004

SERVICE MARK
PRINCIPAL REGISTER

WALA INDUSTRIES, INC. (CALIFORNIA CORPORATION)
7011 WARNER AVENUE UNIT M
HUNTINGTON BEACH, CA 92647

FOR: CARRY-OUT RESTAURANT SERVICES, IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 8-1-1992; IN COMMERCE 8-1-1992.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PIZZA", APART FROM THE MARK AS SHOWN.

THE LINING AND STIPPLING ON THE DRAWING ARE FEATURES OF THE MARK AND DO NOT INDICATE COLOR.

THE MARK CONSISTS, IN PART, OF THE WORDS, "WHAT A LOT A PIZZA", THE DESIGN OF A BANNER ON TOP OF A PIZZA, AND DESIGN. THE COLOR RED APPEARS ON THE TOP OF THE PIZZA WHERE THE SAUCE AND PEPPERONI DESIGNS ARE SHOWN, ON THE WORDS, "WHAT A LOT A PIZZA", AND ON THE HORIZONTAL LINES, STAR DESIGN AND OUTLINE OF THE BANNER DESIGN.

SER. NO. 76-383,004, FILED 3-18-2002.

BARBARA A. GOLD, EXAMINING ATTORNEY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Trademarks
2900 Crystal Drive
Arlington , VA 22202-3514
www.uspto.gov

Feb 4, 2004

NOTICE OF PUBLICATION UNDER 12(a)

1. Serial No.:
76/383,004

2. Mark:
WHAT A LOT A PIZZA
and design

3. International Class(es):
43

4. Publication Date:
Feb 24, 2004

5. Applicant:
WALA INDUSTRIES, INC.

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the Official Gazette on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a certificate of registration.

Copies of the trademark portion of the Official Gazette containing the publication of the mark may be obtained from:

The Superintendent of Documents
U.S. Government Printing Office
PO Box 371954
Pittsburgh, PA 15250-7954
Phone: (202) 512-1800

By direction of the Commissioner.

Correspondence Address:

KEVIN E ROBINSON
WELLINGTON SQ STE D
970 W 17TH ST
SANTA ANA CA 92706

TMP&I

*** User: bgold ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	1	0	1	1	0:01	76383004
02	2	1	1	1	0:02	"what a lot a pizza"[bi,ti] not 1
03	702	N/A	0	0	0:01	080112[dc]
04	22884	N/A	0	0	0:01	010103[dc]
05	2795	N/A	0	0	0:01	010109[dc]
06	0	0	0	0	0:01	210907[dc]
07	3887	N/A	0	0	0:01	260713[dc]
08	9604	N/A	0	0	0:01	260721[dc]
09	15773	N/A	0	0	0:01	240907[dc]
10	1	0	1	1	0:01	3 and 4 and 5 and 7 and 8 and 9
11	30	N/A	0	0	0:01	3 and 9
12	1133773	N/A	0	0	0:04	043[cc]
13	0	0	0	0	0:01	11 and 12 and "2"[md]
14	1133773	N/A	0	0	0:03	043[cc]
15	26	14	12	12	0:01	11 and 12

Session started 11/24/03 9:52:07 AM
Session finished 11/24/03 9:57:04 AM
Total search duration 0 minutes 21 seconds
Session duration 4 minutes 57 seconds

Default NEAR limit= 1 ADJ limit= 1

Sent to TICRS as Serial Number: 76383004

*** User: bgold ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	1	0	1	1	0:01	"wala industries"[ow]
02	1	1	0	0	0:01	"what a lot a pizza"[bi,ti] not 1
03	3644	N/A	0	0	0:01	*what*[bi,ti] not 1
04	14142	N/A	0	0	0:03	*w{"aho"}t*[bi,ti] not 1
05	8204	N/A	0	0	0:01	*lot*[bi,ti] not 1
06	4236	N/A	0	0	0:04	*p{"iy"}z${v}*[bi,ti] not 1
07	35	N/A	0	0	0:04	*p{"iyeea"}tz{v}*[bi,ti] not 1
08	647	N/A	0	0	0:01	080112[dc]
09	20700	N/A	0	0	0:01	010103[dc]
10	2448	N/A	0	0	0:01	010109[dc]
11	14706	N/A	0	0	0:01	240907[dc]
12	3577	N/A	0	0	0:01	260713[dc]
13	8830	N/A	0	0	0:01	260721[dc]
14	1	1	0	0	0:01	(3 or 4) and 5 and (6 or 7)
15	37	18	19	6	0:01	(3 or 4) and 5
16	11	7	4	0	0:01	5 and (6 or 7)
17	1	0	1	1	0:01	8 and 9 and 10 and 11 and 12 and 13
18	100	N/A	0	0	0:01	8 and "2"[md]
19	1031998	N/A	0	0	0:03	043[cc]
20	66	33	33	33	0:01	18 and 19
21	0	0	0	0	0:01	"a lot of"[ds]
22	0	0	0	0	0:01	"what a lot"[ds]
23	1862481	N/A	0	0	0:07	registrant[ow]
24	0	0	0	0	0:01	21 and 23
25	0	0	0	0	0:02	22 and 23
26	29	15	14	14	0:01	(8 and 11) not 18

27	8	3	[redacted]	5	0:01	(8 and [redacted] or 13)) not 18
28	34	16	18	18	0:01	18 not 20

Session started 9/4/02 4:18:38 PM
Session finished 9/4/02 4:30:41 PM
Total search duration 0 minutes 45 seconds
Session duration 12 minutes 3 seconds

Default NEAR limit= 1 ADJ limit= 1

Exhibit G6

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-03-28 13:06:13 ET

Serial Number: 77286324 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

(words only): WHATTACAKE

Standard Character claim: No

Current Status: Abandoned after an inter partes decision by the Trademark Trial and Appeal Board. For further information, see TTABVUE on the Trademark Trial and Appeal Board web page.

Date of Status: 2008-07-21

Filing Date: 2007-09-21

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 108

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 845 -TTAB

Date In Location: 2008-07-21

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. TBC Investments Inc.

Address:
TBC Investments Inc.
#412 22287 Mulholland Hwy.
Calabasas, CA 91302
United States
Legal Entity Type: Corporation
State or Country of Incorporation: California
Phone Number: (818) 591-3479
Fax Number: (818) 591-3468

GOODS AND/OR SERVICES

International Class: 030
Class Status: Abandoned
Bakery desserts; Bakery goods; Bakery products; Ice cream sandwiches; Cakes; Ice cream
Basis: 1(b)
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Color(s) Claimed: Color is not claimed as a feature of the mark.

Design Search Code(s):
08.01.08 - Cakes (foodstuffs); Coffee cake; Muffins
11.03.10 - Paper plates, full; Plates, dinnerware, full
26.11.01 - Rectangles as carriers or rectangles as single or multiple line borders
26.11.20 - Rectangles inside one another
26.11.25 - Rectangles with one or more curved sides

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-07-21 - Abandonment Notice Mailed - After Inter Partes Decision

2008-07-21 - Abandonment - After inter partes decision (Initial exam)

2008-07-21 - Opposition terminated for Proceeding

2008-07-21 - Opposition sustained for Proceeding

2008-04-11 - Opposition instituted for Proceeding

2008-03-18 - Extension Of Time To Oppose Received

2008-03-11 - Published for opposition

2008-02-20 - Notice of publication

2008-02-04 - Law Office Publication Review Completed

2008-02-04 - Assigned To LIE

2007-12-26 - Approved For Pub - Principal Register

2007-12-26 - Assigned To Examiner

2007-09-28 - Notice Of Design Search Code And Pseudo Mark Mailed

2007-09-27 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent
TBC INVESTMENTS INC.
#412
22287 MULHOLLAND HWY
CALABASAS, CA 91302
Phone Number: (818) 591-3479
Fax Number: (818) 591-3468

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451
www.uspto.gov

Feb 20, 2008

NOTICE OF PUBLICATION UNDER 12(a)

1. Serial No.:
77/286,324

2. Mark:
WHATTACAKE
and design

3. International Class(es):
30

4. Publication Date:
Mar 11, 2008

5. Applicant:
TBC Investments Inc.

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the Official Gazette on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a notice of allowance pursuant to section 13(b) of the Statute.

Copies of the trademark portion of the Official Gazette containing the publication of the mark may be obtained from:

The Superintendent of Documents
U.S. Government Printing Office
PO Box 371954
Pittsburgh, PA 15250-7954
Phone: 202-512-1800

By direction of the Commissioner.

Correspondence Address:

TBC INVESTMENTS INC.
#412
22287 MULHOLLAND HWY
CALABASAS, CA 91302

TMP&I

*** User:dfathy ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	2	0	2	2	0:02	"TBC Investments"
02	25563	N/A	2	2	0:03	(*w{v}t* or *wh{v}t*)[bi,ti] not dead[ld]
03	14791	N/A	2	2	0:33	(*{"ckqx"}{v}{"ckqx"}*)[bi,ti] not dead[ld]
04	223	0	223	188	0:01	2 and 3
05	9587	N/A	1	1	0:02	(*w{v}t{v}* or *wh{v}t{v}*)[bi,ti] not dead[ld]
06	177	0	177	110	0:01	(*w{v}tt{v}* or *wh{v}tt{v}*)[bi,ti] not dead[ld]
07	3915	N/A	2	2	0:03	5 and "030"[cc]
08	3750	N/A	2	2	0:04	(w{v}t{v}* or wh{v}t{v}*)[bi,ti] not dead[ld] and "030"[cc]
09	47	0	47	28	0:02	(w{v}ta* or wh{v}ta*)[bi,ti] not dead[ld] and "030"[cc]
10	2525	N/A	2	2	0:01	(wat{v}* or what{v}*)[bi,ti] not dead[ld] and "030"[cc]
11	77	0	77	43	0:01	10 not *water*
12	244	0	244	244	0:03	080108[dc] not dead[ld]
13	267	0	267	267	0:03	110310[dc] not dead[ld]
14	8573	N/A	1	1	0:04	261125[dc] not dead[ld]
15	4148	N/A	1	1	0:02	14 and "030"[cc]
16	939	0	2	939	0:02	14 and ("030" or "a" "b" "200")[ic]
17	7090	N/A	1	1	0:03	261101[dc] not dead[ld]
18	2811	N/A	2	2	0:02	17 and "030"[cc]
19	467	0	2	467	0:02	17 and ("030" or "a" "b" "200")[ic] not 16
20	8965	N/A	1	1	0:03	261120[dc] not dead[ld]
21	620	N/A	1	1	0:01	20 and ("030" or "a" "b" "200")[ic] not 16
22	607	0	2	607	0:01	20 and ("030" or "a" "b" "200")[ic] not 16 not 19

Session started 12/26/2007 11:44:42 AM
Session finished 12/26/2007 12:04:15 PM
Total search duration 1 minutes 19 seconds
Session duration 19 minutes 33 seconds
Defaut NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 77286324

Exhibit G7

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-03-28 13:09:14 ET

Serial Number: 77013481 Assignment Information Trademark Document Retrieval

Registration Number: 3389431

Mark

WATTA

(words only): WATTA

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2009-11-10

Filing Date: 2006-10-04

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

Transformed into a National Application: No

Registration Date: 2008-02-26

Register: Principal

Law Office Assigned: LAW OFFICE 110

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2009-12-29

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Agroamerica Corporation

Address:
Agroamerica Corporation
Avenida Las Americas 22-83 Zona 14
Ciudad Guatemala
Guatemala
Legal Entity Type: Corporation
State or Country of Incorporation: Br. Virgin Islands
Phone Number: 305-669-9848
Fax Number: 305-669-9851

GOODS AND/OR SERVICES

International Class: 031
Class Status: Active
Fresh fruits and vegetables not sold through restaurants, including quick and full-service restaurants
Basis: 1(a)
First Use Date: 2006-12-03
First Use in Commerce Date: 2006-12-03

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-11-12 - Section 7 amendment issued

2009-11-12 - Assigned To Paralegal

2009-11-10 - TTAB Release Case To Trademarks

2009-11-10 - Cancellation terminated for Proceeding

2009-11-10 - Cancellation dismissed for Proceeding

2008-10-22 - Cancellation Instituted No. 999999

2008-02-26 - Registered - Principal Register

2008-01-22 - Law Office Registration Review Completed

2008-01-22 - Allowed for Registration - Principal Register (SOU accepted)

2008-01-09 - Statement Of Use Processing Complete

2007-12-07 - Use Amendment Filed

2007-12-07 - TEAS Statement of Use Received

2007-08-07 - NOA Mailed - SOU Required From Applicant

2007-05-15 - Published for opposition

2007-04-25 - Notice of publication

2007-03-19 - Law Office Publication Review Completed

2007-03-19 - Assigned To LIE

2007-02-22 - Approved For Pub - Principal Register

2007-02-21 - Assigned To Examiner

2006-10-10 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Albert Bordas

Correspondent
ALBERT BORDAS
5975 SUNSET DRIVE
SUITE 607
MIAMI, FL 33143
Phone Number: 305-669-9848
Fax Number: 305-669-9851

Int. Cl.: 31

Prior U.S. Cls.: 1 and 46

United States Patent and Trademark Office

Reg. No. 3,389,431

Registered Feb. 26, 2008

TRADEMARK
PRINCIPAL REGISTER

WATTA

AGROAMERICA CORPORATION (BR.VIRGIN ISLANDS CORPORATION)
AVENIDA LAS AMERICAS 22-83 ZONA 14
CIUDAD GUATEMALA, GUATEMALA

FOR: FRESH FRUITS; FRESH VEGETABLES, IN CLASS 31 (U.S. CLS. 1 AND 46).

FIRST USE 12-3-2006; IN COMMERCE 12-3-2006.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-013,481, FILED 10-4-2006.

CAROLINE WOOD, EXAMINING ATTORNEY

U.S. Patent and Trademark Office (USPTO)

NOTICE OF ALLOWANCE

NOTE: If any data on this notice is incorrect, please fax a request for correction to the Intent to Use Unit at 571-273-9550. Please include the serial number of your application on ALL correspondence with the USPTO.

ISSUE DATE: Aug 7, 2007

ALBERT BORDAS,
5975 SUNSET DR STE 607
SOUTH MIAMI, FL 33143-5174

ATTORNEY
REFERENCE NUMBER

060187

** IMPORTANT INFORMATION: 6 MONTH DEADLINE **

You filed the trademark application identified below based upon a bona fide intention to use the mark in commerce. You must use the mark in commerce and file a Statement of Use (a.k.a. Allegation of Use) before the USPTO will register the mark. You have six (6) MONTHS from the ISSUE DATE of this Notice of Allowance (NOA) to file either a Statement of Use, or if you are not yet using the mark in commerce, a Request for Extension of Time to File a Statement of use ("Extension Request"). If you file an extension request, you must continue to file a new request every six months until the Statement of Use is filed. Applicant may file a total of five (5) extension requests. FAILURE TO FILE A REQUIRED DOCUMENT DURING THE APPROPRIATE TIME PERIOD WILL RESULT IN THE ABANDONMENT OF YOUR APPLICATION.Please note that both the "Statement of Use " and "Extension Request" have many legal requirements including fees. Therefore, we encourage use of the USPTO forms, available online at http://www.uspto.gov/teas/index.html (under "File a PRE-registration form"), to avoid the possible omission of important information. Please note that the Trademark Electronic Application System (TEAS) provides line-by-line help instructions for completing the Extension Request or Statement of Use forms online. If you do not have access to the Internet, you may call 1-800-786-9199 to request the printed form(s).

The following information should be reviewed for accuracy:

SERIAL NUMBER:	77/013481
MARK:	WATTA (STANDARD CHARACTER MARK)
OWNER:	Agroamerica Corporation Avenida Las Americas 22-83 Zona 14 Ciudad Guatemala , GUATEMALA

This application has the following bases, but not necessarily for all listed goods/services:

Section 1(a): NO Section 1(b): YES Section 44(e): NO

GOODS/SERVICES BY INTERNATIONAL CLASS

031 - Fresh fruits; Fresh vegetables -- FIRST USE DATE: NONE; -- USE IN COMMERCE DATE: NONE

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED

ADDITIONAL INFORMATION MAY BE PRESENT IN THE USPTO RECORDS

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451
www.uspto.gov

Apr 25, 2007

NOTICE OF PUBLICATION UNDER 12(a)

1. Serial No.:
77/013,481

2. Mark:
WATTA
Standard Character Mark

3. International Class(es):
31

4. Publication Date:
May 15, 2007

5. Applicant:
Agroamerica Corporation

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the Official Gazette on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a notice of allowance pursuant to section 13(b) of the Statute.

Copies of the trademark portion of the Official Gazette containing the publication of the mark may be obtained from:

The Superintendent of Documents
U.S. Government Printing Office
PO Box 371954
Pittsburgh, PA 15250-7954
Phone: 202-512-1800

By direction of the Commissioner.

Correspondence Address:

ALBERT BORDAS,
5975 SUNSET DR STE 607
SOUTH MIAMI, FL 33143-5174

TMP&I

*** User:CWood ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	1	0	1	1	0:01	77013481[SN]
02	33	19	1	1	0:02	*w{v:1}tta*[bi,ti]
03	14	0	14	8	0:03	2 not dead[ld]
04	63	N/A	0	0	0:01	*wata*[bi,ti]
05	30	0	30	20	0:01	4 not 3 not dead[ld]
06	77	N/A	0	0	0:01	*watt{v:1}*[bi,ti]
07	24	0	24	17	0:01	6 not 5 not 4 not 3 not dead[ld]
08	1	0	1	1	0:01	*watt{v:1}fr*[bi,ti]
09	5873	N/A	0	0	0:01	*what*[bi,ti]
10	91556	N/A	0	0	0:01	a[bi,ti]
11	556	N/A	0	0	0:01	9 and 10
12	243	N/A	0	0	0:01	11 not 7 not 5 not 4 not 3 not dead[ld]
13	1356157	N/A	0	0	0:03	"031"[cc]
14	102	0	102	48	0:01	12 and 13
15	69	N/A	0	0	0:01	*whata*[bi,ti]
16	20	0	20	10	0:01	15 not 14 not 7 not 5 not 4 not 3 not dead[ld]
17	910	N/A	0	0	0:01	"050901"[dc]
18	3089	N/A	0	0	0:01	"050905"[dc]
19	595	N/A	0	0	0:01	"050909"[dc]
20	177	N/A	0	0	0:01	"050910"[dc]
21	517	N/A	0	0	0:01	"050911"[dc]
22	1091	N/A	0	0	0:01	"050925"[dc]
23	246	N/A	0	0	0:01	17 and (18 or 19 or 20 or 21 or 22)
24	239	N/A	0	0	0:01	18 and (19 or 20 or 21 or 22)
25	154	N/A	0	0	0:01	19 and (20 or 21 or 22)
26	49	N/A	0	0	0:01	20 and (21 or 22)
27	84	N/A	0	0	0:01	21 and 22
28	122	0	122	122	0:03	23 not dead[ld]
29	73	0	73	73	0:01	24 not 23 not dead[ld]
30	28	0	28	28	0:02	25 not 24 not 23 not dead[ld]
31	5	0	5	5	0:02	26 not 25 not 24 not 23 not dead[ld]
32	8	0	8	8	0:01	27 not 26 not 25 not 24 not 23 not dead[ld]
33	4273	N/A	0	0	0:01	"260914"[dc]
34	116855	N/A	0	0	0:01	"261121"[dc]
35	31014	N/A	0	0	0:01	"260921"[dc]
36	459	N/A	0	0	0:01	33 and 34 and 35
37	423	N/A	0	0	0:01	36 not 28 not 26 not 25 not 24 not 23 not dead[ld]
38	173	0	173	173	0:02	13 and 37

Session started 2/22/2007 9:05:49 AM

Session finished 2/22/2007 9:26:14 AM
Total search duration 0 minutes 48 seconds
Session duration 20 minutes 25 seconds
Defaut NEAR limit=1 ADJ limit=1

Sent to TICRS as Serial Number: 77013481

Exhibit G8

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-03-28 13:12:00 ET

Serial Number: 77217716 Assignment Information Trademark Document Retrieval

Registration Number: 3525137

Mark

Wattabanana

(words only): WATTABANANA

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2008-10-28

Filing Date: 2007-06-28

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

Transformed into a National Application: No

Registration Date: 2008-10-28

Register: Principal

Law Office Assigned: LAW OFFICE 117

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2010-08-14

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Agroamerica Corporation

Address:
Agroamerica Corporation
Avenida Las Americas 22-83 Zona 14
Ciudad Guatemala
Guatemala
Legal Entity Type: Corporation
State or Country of Incorporation: Br. Virgin Islands
Phone Number: 305-669-9848
Fax Number: 305-669-9851

GOODS AND/OR SERVICES

International Class: 031
Class Status: Active
Fresh fruits and fresh vegetables not sold through restaurants, including quick and full-services restaurants
Basis: 1(a)
First Use Date: 2007-02-23
First Use in Commerce Date: 2007-02-23

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-07-02 - Section 7 amendment issued

2010-06-17 - Section 7 amendment filed

2010-06-17 - TEAS Response To Office Action-Post Reg Received

2010-06-09 - Post Registration action mailed - Section 7

2010-05-04 - TEAS Response To Office Action-Post Reg Received

2009-12-07 - Post Registration action mailed - Section 7

2009-12-04 - Case Assigned To Post Registration Paralegal

2009-11-03 - TEAS Section 7 Request Received

2008-10-28 - Registered - Principal Register

2008-09-23 - Law Office Registration Review Completed

2008-09-23 - Assigned To LIE

2008-09-22 - Allowed for Registration - Principal Register (SOU accepted)

2008-09-10 - Statement Of Use Processing Complete

2008-09-03 - Use Amendment Filed

2008-09-10 - Case Assigned To Intent To Use Paralegal

2008-09-03 - TEAS Statement of Use Received

2008-03-04 - NOA Mailed - SOU Required From Applicant

2007-12-11 - Published for opposition

2007-11-21 - Notice of publication

2007-11-03 - Law Office Publication Review Completed

2007-11-03 - Assigned To LIE

2007-10-01 - Approved For Pub - Principal Register

2007-09-28 - Assigned To Examiner

2007-07-03 - Notice Of Pseudo Mark Mailed

2007-07-02 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Albert Bordas, Esq.

Correspondent

Albert Bordas, Esq.
ALBERT BORDAS, P.A.
5975 SUNSET DR STE 607
MIAMI FL 33143-5174
Phone Number: 305-669-9848
Fax Number: 305-669-9851

Int. Cl.: 31
Prior U.S. Cls.: 1 and 46
United States Patent and Trademark Office
Amended

Reg. No. 3,525,137
Registered Oct. 28, 2008
OG Date Aug. 10, 2010

TRADEMARK
PRINCIPAL REGISTER

Wattabanana

AGROAMERICA CORPORATION (BR.VIRGIN ISLANDS CORPORATION)
AVENIDA LAS AMERICAS 22-83 ZONA 14
CIUDAD GUATEMALA, GUATEMALA

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

FOR: FRESH FRUITS AND FRESH VEGETABLES * NOT SOLD THROUGH RESTAURANTS, INCLUDING QUICK AND FULL-SERVICES RESTAURANTS *, IN CLASS 31 (U.S. CLS. 1 AND 46).

FIRST USE 2-23-2007; IN COMMERCE 2-23-2007.

SER. NO. 77-217,716, FILED 6-28-2007.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Aug. 10, 2010.

U.S. Patent and Trademark Office (USPTO)

NOTICE OF ALLOWANCE

NOTE: If any data on this notice is incorrect, please fax a request for correction to the Intent to Use Unit at 571-273-9550. Please include the serial number of your application on ALL correspondence with the USPTO.

ISSUE DATE: Mar 4, 2008

ALBERT BORDAS, ESQ.
ALBERT BORDAS, P.A.
5975 SUNSET DR STE 607
MIAMI, FL 33143-5174

ATTORNEY
REFERENCE NUMBER

070132

** IMPORTANT INFORMATION: 6 MONTH DEADLINE **

You filed the trademark application identified below based upon a bona fide intention to use the mark in commerce. You must use the mark in commerce and file a Statement of Use (a.k.a. Allegation of Use) before the USPTO will register the mark. You have six (6) MONTHS from the ISSUE DATE of this Notice of Allowance (NOA) to file either a Statement of Use, or if you are not yet using the mark in commerce, a Request for Extension of Time to File a Statement of use ("Extension Request"). If you file an extension request, you must continue to file a new request every six months until the Statement of Use is filed. Applicant may file a total of five (5) extension requests. FAILURE TO FILE A REQUIRED DOCUMENT DURING THE APPROPRIATE TIME PERIOD WILL RESULT IN THE ABANDONMENT OF YOUR APPLICATION.Please note that both the "Statement of Use " and "Extension Request" have many legal requirements including fees. Therefore, we encourage use of the USPTO forms, available online at http://www.uspto.gov/teas/index.html (under "File a PRE-registration form"), to avoid the possible omission of important information. Please note that the Trademark Electronic Application System (TEAS) provides line-by-line help instructions for completing the Extension Request or Statement of Use forms online. If you do not have access to the Internet, you may call 1-800-786-9199 to request the printed form(s).

The following information should be reviewed for accuracy:

SERIAL NUMBER:	77/217716
MARK:	WATTABANANA (STANDARD CHARACTER MARK)
OWNER:	Agroamerica Corporation Avenida Las Americas 22-83 Zona 14 Ciudad Guatemala , GUATEMALA

This application has the following bases, but not necessarily for all listed goods/services:

Section 1(a): NO Section 1(b): YES Section 44(e): NO

GOODS/SERVICES BY INTERNATIONAL CLASS

031 - Fresh fruits; Fresh vegetables -- FIRST USE DATE: NONE; -- USE IN COMMERCE DATE: NONE

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED

ADDITIONAL INFORMATION MAY BE PRESENT IN THE USPTO RECORDS

Side - 1

NOTICE OF PUBLICATION UNDER §12(a)

MAILING DATE: Nov 21, 2007
PUBLICATION DATE: Dec 11, 2007

The mark identified below will be published in the Official Gazette on Dec 11, 2007. Any party who believes they will be damaged by registration of the mark may oppose its registration by filing an opposition to registration or a request to extend the time to oppose within thirty (30) days from the publication date on this notice. If no opposition is filed within the time specified by law, the USPTO may issue a Notice of Allowance.To view the Official Gazette online or to order a paper copy, visit the USPTO website at http://www.uspto.gov/web/trademarks/tmog/ any time within the five-week period after the date of publication. You may also order a printed version from the U.S. Government Printing Office (GPO) at http://bookstore.gpo.gov or 202-512-1800. To check the status of your application, go to http://tarr.uspto.gov/.

SERIAL NUMBER: **77217716**
MARK: **WATTABANANA**
OWNER: **Agroamerica Corporation**

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA, VA 22313-1451

FIRST-CLASS
MAIL
U.S POSTAGE
PAID

ALBERT BORDAS, ESQ.
ALBERT BORDAS, P.A.
5975 SUNSET DR STE 607
MIAMI, FL 33143-5174

*** User:fblandu ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	34	17	17	14	0:02	*watta*[bi,ti]
02	6317	N/A	0	0	0:01	*what*[bi,ti]
03	2948148	N/A	0	0	0:06	*a*[bi,ti]
04	6317	N/A	0	0	0:01	2 and 3
05	1422256	N/A	0	0	0:02	031[cc]
06	2726427	N/A	0	0	0:03	dead[ld]
07	1181	0	67	32	0:01	(2 and 5) not 6
08	178	0	20	12	0:02	(*banana*[bi,ti] and 5) not 6
09	12	0	12	12	0:03	(*mngst$n*[bi,ti] and 5) not 6
10	1	0	1	1	0:01	(*lychi*[bi,ti] and 5) not 6
11	7	0	7	6	0:03	(*rmbt$n*[bi,ti] and 5) not 6
12	29	0	29	19	0:02	(*plntin*[bi,ti] and 5) not 6
13	136	0	26	11	0:04	(*p$n$ap*[bi,ti] and 5) not 6

Session started 9/29/2007 2:45:38 PM
Session finished 9/29/2007 3:04:01 PM
Total search duration 0 minutes 31 seconds
Session duration 18 minutes 23 seconds
Defaut NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 77217716

Exhibit G9

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-03-28 13:13:17 ET

Serial Number: 77242320 Assignment Information Trademark Document Retrieval

Registration Number: 3525245

Mark

Wattalittlebanana

(words only): WATTALITTLEBANANA

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2008-10-28

Filing Date: 2007-07-30

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

Transformed into a National Application: No

Registration Date: 2008-10-28

Register: Principal

Law Office Assigned: LAW OFFICE 117

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2010-08-14

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Agroamerica Corporation

Address:
Agroamerica Corporation
Avenida Las Americas 22-83 Zona 14
Ciudad Guatemala
Guatemala
Legal Entity Type: Corporation
State or Country of Incorporation: Br. Virgin Islands
Phone Number: 305-669-9848
Fax Number: 305-669-9851

GOODS AND/OR SERVICES

International Class: 031
Class Status: Active
Fresh fruits and fresh vegetables not sold through restaurants, including quick and full-services restaurants
Basis: 1(a)
First Use Date: 2007-11-06
First Use in Commerce Date: 2007-11-06

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-07-02 - Section 7 amendment issued

2010-06-17 - Section 7 amendment filed

2010-06-17 - TEAS Response To Office Action-Post Reg Received

2010-06-16 - Post Registration action mailed - Section 7

2010-05-04 - TEAS Response To Office Action-Post Reg Received

2009-12-07 - Post Registration action mailed - Section 7

2009-12-04 - Case Assigned To Post Registration Paralegal

2009-11-03 - TEAS Section 7 Request Received

2008-10-28 - Registered - Principal Register

2008-09-22 - Law Office Registration Review Completed

2008-09-22 - Allowed for Registration - Principal Register (SOU accepted)

2008-09-10 - Statement Of Use Processing Complete

2008-09-03 - Use Amendment Filed

2008-09-10 - Case Assigned To Intent To Use Paralegal

2008-09-03 - TEAS Statement of Use Received

2008-03-04 - NOA Mailed - SOU Required From Applicant

2007-12-11 - Published for opposition

2007-11-21 - Notice of publication

2007-11-03 - Law Office Publication Review Completed

2007-11-03 - Assigned To LIE

2007-10-01 - Approved For Pub - Principal Register

2007-09-28 - Assigned To Examiner

2007-08-03 - Notice Of Pseudo Mark Mailed

2007-08-02 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Albert Bordas, Esq.

Correspondent
Albert Bordas, Esq.
ALBERT BORDAS, P.A.

5975 SUNSET DR STE 607
MIAMI FL 33143-5174
Phone Number: 305-669-9848
Fax Number: 305-669-9851

Int. Cl.: 31
Prior U.S. Cls.: 1 and 46
United States Patent and Trademark Office
Amended

Reg. No. 3,525,245
Registered Oct. 28, 2008
OG Date Aug. 10, 2010

TRADEMARK
PRINCIPAL REGISTER

Wattalittlebanana

AGROAMERICA CORPORATION (BR.VIRGIN ISLANDS CORPORATION)
AVENIDA LAS AMERICAS 22-83 ZONA 14
CIUDAD GUATEMALA, GUATEMALA

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

FOR: FRESH FRUITS AND FRESH VEGETABLES * NOT SOLD THROUGH RESTAURANTS, INCLUDING QUICK AND FULL-SERVICES RESTAURANTS *, IN CLASS 31 (U.S. CLS. 1 AND 46).

FIRST USE 11-6-2007; IN COMMERCE 11-6-2007.

SER. NO. 77-242,320, FILED 7-30-2007.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Aug. 10, 2010.

U.S. Patent and Trademark Office (USPTO)

NOTICE OF ALLOWANCE

NOTE: If any data on this notice is incorrect, please fax a request for correction to the Intent to Use Unit at 571-273-9550. Please include the serial number of your application on ALL correspondence with the USPTO.

ISSUE DATE: Mar 4, 2008

ALBERT BORDAS, ESQ.
ALBERT BORDAS, P.A.
5975 SUNSET DR STE 607
MIAMI, FL 33143-5174

ATTORNEY
REFERENCE NUMBER

070148

** IMPORTANT INFORMATION: 6 MONTH DEADLINE **

You filed the trademark application identified below based upon a bona fide intention to use the mark in commerce. You must use the mark in commerce and file a Statement of Use (a.k.a. Allegation of Use) before the USPTO will register the mark. You have six (6) MONTHS from the ISSUE DATE of this Notice of Allowance (NOA) to file either a Statement of Use, or if you are not yet using the mark in commerce, a Request for Extension of Time to File a Statement of use ("Extension Request"). If you file an extension request, you must continue to file a new request every six months until the Statement of Use is filed. Applicant may file a total of five (5) extension requests. FAILURE TO FILE A REQUIRED DOCUMENT DURING THE APPROPRIATE TIME PERIOD WILL RESULT IN THE ABANDONMENT OF YOUR APPLICATION.Please note that both the "Statement of Use " and "Extension Request" have many legal requirements including fees. Therefore, we encourage use of the USPTO forms, available online at http://www.uspto.gov/teas/index.html (under "File a PRE-registration form"), to avoid the possible omission of important information. Please note that the Trademark Electronic Application System (TEAS) provides line-by-line help instructions for completing the Extension Request or Statement of Use forms online. If you do not have access to the Internet, you may call 1-800-786-9199 to request the printed form(s).

The following information should be reviewed for accuracy:

SERIAL NUMBER:	77/242320
MARK:	WATTALITTLEBANANA (STANDARD CHARACTER MARK)
OWNER:	Agroamerica Corporation Avenida Las Americas 22-83 Zona 14 Ciudad Guatemala , GUATEMALA

This application has the following bases, but not necessarily for all listed goods/services:

Section 1(a): NO Section 1(b): YES Section 44(e): NO

GOODS/SERVICES BY INTERNATIONAL CLASS

031 - Fresh fruits; Fresh vegetables -- FIRST USE DATE: NONE; -- USE IN COMMERCE DATE: NONE

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED

ADDITIONAL INFORMATION MAY BE PRESENT IN THE USPTO RECORDS

Side - 1

NOTICE OF PUBLICATION UNDER §12(a)

MAILING DATE: Nov 21, 2007
PUBLICATION DATE: Dec 11, 2007

The mark identified below will be published in the Official Gazette on Dec 11, 2007. Any party who believes they will be damaged by registration of the mark may oppose its registration by filing an opposition to registration or a request to extend the time to oppose within thirty (30) days from the publication date on this notice. If no opposition is filed within the time specified by law, the USPTO may issue a Notice of Allowance.To view the Official Gazette online or to order a paper copy, visit the USPTO website at http://www.uspto.gov/web/trademarks/tmog/ any time within the five-week period after the date of publication. You may also order a printed version from the U.S. Government Printing Office (GPO) at http://bookstore.gpo.gov or 202-512-1800. To check the status of your application, go to http://tarr.uspto.gov/.

SERIAL NUMBER:	**77242320**
MARK:	**WATTALITTLEBANANA**
OWNER:	**Agroamerica Corporation**

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA, VA 22313-1451

FIRST-CLASS
MAIL
U.S POSTAGE
PAID

ALBERT BORDAS, ESQ.
ALBERT BORDAS, P.A.
5975 SUNSET DR STE 607
MIAMI, FL 33143-5174

*** User:fblandu ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	34	17	17	14	0:02	*watta*[bi,ti]
02	6317	N/A	0	0	0:01	*what*[bi,ti]
03	2948148	N/A	0	0	0:06	*a*[bi,ti]
04	6317	N/A	0	0	0:01	2 and 3
05	1422256	N/A	0	0	0:02	031[cc]
06	2726427	N/A	0	0	0:03	dead[ld]
07	1181	0	67	32	0:01	(2 and 5) not 6
08	178	0	20	12	0:02	(*banana*[bi,ti] and 5) not 6
09	12	0	12	12	0:03	(*mngst$n*[bi,ti] and 5) not 6
10	1	0	1	1	0:01	(*lychi*[bi,ti] and 5) not 6
11	7	0	7	6	0:03	(*rmbt$n*[bi,ti] and 5) not 6
12	29	0	29	19	0:02	(*plntin*[bi,ti] and 5) not 6
13	136	0	26	11	0:04	(*p$n$ap*[bi,ti] and 5) not 6

Session started 9/29/2007 2:45:38 PM
Session finished 9/29/2007 3:04:25 PM
Total search duration 0 minutes 31 seconds
Session duration 18 minutes 47 seconds
Defaut NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 77242320

Exhibit G10

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-03-28 13:14:05 ET

Serial Number: 77217729 Assignment Information Trademark Document Retrieval

Registration Number: 3525138

Mark

Wattapineapple

(words only): WATTAPINEAPPLE

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2008-10-28

Filing Date: 2007-06-28

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

Transformed into a National Application: No

Registration Date: 2008-10-28

Register: Principal

Law Office Assigned: LAW OFFICE 117

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2010-08-14

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Agroamerica Corporation

Address:
Agroamerica Corporation
Avenida Las Americas 22-83 Zona 14
Ciudad Guatemala
Guatemala
Legal Entity Type: Corporation
State or Country of Incorporation: Br. Virgin Islands
Phone Number: 305-669-9848
Fax Number: 305-669-9851

GOODS AND/OR SERVICES

International Class: 031
Class Status: Active
Fresh fruits and fresh vegetables not sold through restaurants, including quick and full-services restaurants
Basis: 1(a)
First Use Date: 2006-12-23
First Use in Commerce Date: 2006-12-23

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-07-02 - Section 7 amendment issued

2010-06-17 - Section 7 amendment filed

2010-06-17 - TEAS Response To Office Action-Post Reg Received

2010-06-16 - Post Registration action mailed - Section 7

2010-05-04 - TEAS Response To Office Action-Post Reg Received

2009-12-07 - Post Registration action mailed - Section 7

2009-12-04 - Case Assigned To Post Registration Paralegal

2009-11-03 - TEAS Section 7 Request Received

2008-10-28 - Registered - Principal Register

2008-09-23 - Law Office Registration Review Completed

2008-09-23 - Assigned To LIE

2008-09-22 - Allowed for Registration - Principal Register (SOU accepted)

2008-09-10 - Statement Of Use Processing Complete

2008-09-03 - Use Amendment Filed

2008-09-10 - Case Assigned To Intent To Use Paralegal

2008-09-03 - TEAS Statement of Use Received

2008-03-04 - NOA Mailed - SOU Required From Applicant

2007-12-11 - Published for opposition

2007-11-21 - Notice of publication

2007-11-03 - Law Office Publication Review Completed

2007-11-03 - Assigned To LIE

2007-10-01 - Approved For Pub - Principal Register

2007-09-28 - Assigned To Examiner

2007-07-03 - Notice Of Pseudo Mark Mailed

2007-07-02 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Albert Bordas, Esq.

Correspondent

Albert Bordas, Esq.
ALBERT BORDAS, P.A.
5975 SUNSET DR STE 607
MIAMI FL 33143-5174
Phone Number: 305-669-9848
Fax Number: 305-669-9851

Int. Cl.: 31
Prior U.S. Cls.: 1 and 46
United States Patent and Trademark Office
Amended

Reg. No. 3,525,138
Registered Oct. 28, 2008
OG Date Aug. 10, 2010

TRADEMARK
PRINCIPAL REGISTER

Wattapineapple

AGROAMERICA CORPORATION (BR.VIRGIN ISLANDS CORPORATION)
AVENIDA LAS AMERICAS 22-83 ZONA 14
CIUDAD GUATEMALA, GUATEMALA

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

FOR: FRESH FRUITS AND FRESH VEGETABLES * NOT SOLD THROUGH RESTAURANTS, INCLUDING QUICK AND FULL-SERVICES RESTAURANTS *, IN CLASS 31 (U.S. CLS. 1 AND 46).

FIRST USE 12-23-2006; IN COMMERCE 12-23-2006.

SER. NO. 77-217,729, FILED 6-28-2007.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Aug. 10, 2010.

U.S. Patent and Trademark Office (USPTO)

NOTICE OF ALLOWANCE

NOTE: If any data on this notice is incorrect, please fax a request for correction to the Intent to Use Unit at 571-273-9550. Please include the serial number of your application on ALL correspondence with the USPTO.

ISSUE DATE: Mar 4, 2008

ALBERT BORDAS, ESQ.
ALBERT BORDAS, P.A.
5975 SUNSET DR STE 607
MIAMI, FL 33143-5174

ATTORNEY
REFERENCE NUMBER

070133

** IMPORTANT INFORMATION: 6 MONTH DEADLINE **

You filed the trademark application identified below based upon a bona fide intention to use the mark in commerce. You must use the mark in commerce and file a Statement of Use (a.k.a. Allegation of Use) before the USPTO will register the mark. You have six (6) MONTHS from the ISSUE DATE of this Notice of Allowance (NOA) to file either a Statement of Use, or if you are not yet using the mark in commerce, a Request for Extension of Time to File a Statement of use ("Extension Request"). If you file an extension request, you must continue to file a new request every six months until the Statement of Use is filed. Applicant may file a total of five (5) extension requests. FAILURE TO FILE A REQUIRED DOCUMENT DURING THE APPROPRIATE TIME PERIOD WILL RESULT IN THE ABANDONMENT OF YOUR APPLICATION.Please note that both the "Statement of Use " and "Extension Request" have many legal requirements including fees. Therefore, we encourage use of the USPTO forms, available online at http://www.uspto.gov/teas/index.html (under "File a PRE-registration form"), to avoid the possible omission of important information. Please note that the Trademark Electronic Application System (TEAS) provides line-by-line help instructions for completing the Extension Request or Statement of Use forms online. If you do not have access to the Internet, you may call 1-800-786-9199 to request the printed form(s).

The following information should be reviewed for accuracy:

SERIAL NUMBER:	77/217729
MARK:	WATTAPINEAPPLE (STANDARD CHARACTER MARK)
OWNER:	Agroamerica Corporation Avenida Las Americas 22-83 Zona 14 Ciudad Guatemala , GUATEMALA

This application has the following bases, but not necessarily for all listed goods/services:

Section 1(a): NO Section 1(b): YES Section 44(e): NO

GOODS/SERVICES BY INTERNATIONAL CLASS

031 - Fresh fruits; Fresh vegetables -- FIRST USE DATE: NONE; -- USE IN COMMERCE DATE: NONE

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED

ADDITIONAL INFORMATION MAY BE PRESENT IN THE USPTO RECORDS

Side - 1

NOTICE OF PUBLICATION UNDER §12(a)

MAILING DATE: Nov 21, 2007
PUBLICATION DATE: Dec 11, 2007

The mark identified below will be published in the Official Gazette on Dec 11, 2007. Any party who believes they will be damaged by registration of the mark may oppose its registration by filing an opposition to registration or a request to extend the time to oppose within thirty (30) days from the publication date on this notice. If no opposition is filed within the time specified by law, the USPTO may issue a Notice of Allowance. To view the Official Gazette online or to order a paper copy, visit the USPTO website at http://www.uspto.gov/web/trademarks/tmog/ any time within the five-week period after the date of publication. You may also order a printed version from the U.S. Government Printing Office (GPO) at http://bookstore.gpo.gov or 202-512-1800. To check the status of your application, go to http://tarr.uspto.gov/.

SERIAL NUMBER: **77217729**
MARK: **WATTAPINEAPPLE**
OWNER: **Agroamerica Corporation**

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA, VA 22313-1451

FIRST-CLASS
MAIL
U.S POSTAGE
PAID

ALBERT BORDAS, ESQ.
ALBERT BORDAS, P.A.
5975 SUNSET DR STE 607
MIAMI, FL 33143-5174

*** User:fblandu ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	34	17	17	14	0:02	*watta*[bi,ti]
02	6317	N/A	0	0	0:01	*what*[bi,ti]
03	2948148	N/A	0	0	0:06	*a*[bi,ti]
04	6317	N/A	0	0	0:01	2 and 3
05	1422256	N/A	0	0	0:02	031[cc]
06	2726427	N/A	0	0	0:03	dead[ld]
07	1181	0	67	32	0:01	(2 and 5) not 6
08	178	0	20	12	0:02	(*banana*[bi,ti] and 5) not 6
09	12	0	12	12	0:03	(*mngst$n*[bi,ti] and 5) not 6
10	1	0	1	1	0:01	(*lychi*[bi,ti] and 5) not 6
11	7	0	7	6	0:03	(*rmbt$n*[bi,ti] and 5) not 6
12	29	0	29	19	0:02	(*plntin*[bi,ti] and 5) not 6
13	136	0	26	11	0:04	(*p$n$ap*[bi,ti] and 5) not 6

Session started 9/29/2007 2:45:38 PM
Session finished 9/29/2007 3:06:06 PM
Total search duration 0 minutes 31 seconds
Session duration 20 minutes 28 seconds
Defaut NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 77217729

Exhibit G11

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-03-28 13:14:50 ET

Serial Number: 77242240 Assignment Information Trademark Document Retrieval

Registration Number: 3525244

Mark

Wattarambutan

(words only): WATTARAMBUTAN

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2008-10-28

Filing Date: 2007-07-30

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

Transformed into a National Application: No

Registration Date: 2008-10-28

Register: Principal

Law Office Assigned: LAW OFFICE 117

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2010-08-14

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Agroamerica Corporation

Address:
Agroamerica Corporation
Avenida Las Americas 22-83 Zona 14
Ciudad Guatemala
Guatemala
Legal Entity Type: Corporation
State or Country of Incorporation: Br. Virgin Islands
Phone Number: 305-669-9848
Fax Number: 305-669-9851

GOODS AND/OR SERVICES

International Class: 031
Class Status: Active
Fresh fruits and fresh vegetables not sold through restaurants, including quick and full-services restaurants
Basis: 1(a)
First Use Date: 2007-11-08
First Use in Commerce Date: 2007-11-08

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-07-02 - Section 7 amendment issued

2010-06-17 - Section 7 amendment filed

2010-06-17 - TEAS Response To Office Action-Post Reg Received

2010-06-16 - Post Registration action mailed - Section 7

2010-05-04 - TEAS Response To Office Action-Post Reg Received

2009-12-07 - Post Registration action mailed - Section 7

2009-12-04 - Case Assigned To Post Registration Paralegal

2009-11-03 - TEAS Section 7 Request Received

2008-10-28 - Registered - Principal Register

2008-09-22 - Law Office Registration Review Completed

2008-09-22 - Allowed for Registration - Principal Register (SOU accepted)

2008-09-10 - Statement Of Use Processing Complete

2008-09-03 - Use Amendment Filed

2008-09-10 - Case Assigned To Intent To Use Paralegal

2008-09-03 - TEAS Statement of Use Received

2008-03-04 - NOA Mailed - SOU Required From Applicant

2007-12-11 - Published for opposition

2007-11-21 - Notice of publication

2007-11-03 - Law Office Publication Review Completed

2007-11-03 - Assigned To LIE

2007-10-01 - Approved For Pub - Principal Register

2007-09-28 - Assigned To Examiner

2007-08-02 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Albert Bordas, Esq.

Correspondent
Albert Bordas, Esq.
ALBERT BORDAS, P.A.
5975 SUNSET DR STE 607
MIAMI FL 33143-5174

Phone Number: 305-669-9848
Fax Number: 305-669-9851

Int. Cl.: 31
Prior U.S. Cls.: 1 and 46
United States Patent and Trademark Office
Amended

Reg. No. 3,525,244
Registered Oct. 28, 2008
OG Date Aug. 10, 2010

TRADEMARK
PRINCIPAL REGISTER

Wattarambutan

AGROAMERICA CORPORATION (BR.VIRGIN ISLANDS CORPORATION)
AVENIDA LAS AMERICAS 22-83 ZONA 14
CIUDAD GUATEMALA, GUATEMALA

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

FOR: FRESH FRUITS AND FRESH VEGETABLES * NOT SOLD THROUGH RESTAURANTS, INCLUDING QUICK AND FULL-SERVICES RESTAURANTS *, IN CLASS 31 (U.S. CLS. 1 AND 46).

FIRST USE 11-8-2007; IN COMMERCE 11-8-2007.

SER. NO. 77-242,240, FILED 7-30-2007.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Aug. 10, 2010.

U.S. Patent and Trademark Office (USPTO)

NOTICE OF ALLOWANCE

NOTE: If any data on this notice is incorrect, please fax a request for correction to the Intent to Use Unit at 571-273-9550. Please include the serial number of your application on ALL correspondence with the USPTO.

ISSUE DATE: Mar 4, 2008

ALBERT BORDAS, ESQ.
ALBERT BORDAS, P.A.
5975 SUNSET DR STE 607
MIAMI, FL 33143-5174

ATTORNEY
REFERENCE NUMBER

070145

** IMPORTANT INFORMATION: 6 MONTH DEADLINE **

You filed the trademark application identified below based upon a bona fide intention to use the mark in commerce. You must use the mark in commerce and file a Statement of Use (a.k.a. Allegation of Use) before the USPTO will register the mark. You have six (6) MONTHS from the ISSUE DATE of this Notice of Allowance (NOA) to file either a Statement of Use, or if you are not yet using the mark in commerce, a Request for Extension of Time to File a Statement of use ("Extension Request"). If you file an extension request, you must continue to file a new request every six months until the Statement of Use is filed. Applicant may file a total of five (5) extension requests. FAILURE TO FILE A REQUIRED DOCUMENT DURING THE APPROPRIATE TIME PERIOD WILL RESULT IN THE ABANDONMENT OF YOUR APPLICATION.Please note that both the "Statement of Use " and "Extension Request" have many legal requirements including fees. Therefore, we encourage use of the USPTO forms, available online at http://www.uspto.gov/teas/index.html (under "File a PRE-registration form"), to avoid the possible omission of important information. Please note that the Trademark Electronic Application System (TEAS) provides line-by-line help instructions for completing the Extension Request or Statement of Use forms online. If you do not have access to the Internet, you may call 1-800-786-9199 to request the printed form(s).

The following information should be reviewed for accuracy:

SERIAL NUMBER:	77/242240
MARK:	WATTARAMBUTAN (STANDARD CHARACTER MARK)
OWNER:	Agroamerica Corporation Avenida Las Americas 22-83 Zona 14 Ciudad Guatemala , GUATEMALA

This application has the following bases, but not necessarily for all listed goods/services:

Section 1(a): NO Section 1(b): YES Section 44(e): NO

GOODS/SERVICES BY INTERNATIONAL CLASS

031 - Fresh fruits; Fresh vegetables -- FIRST USE DATE: NONE; -- USE IN COMMERCE DATE: NONE

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED

ADDITIONAL INFORMATION MAY BE PRESENT IN THE USPTO RECORDS

Side - 1

NOTICE OF PUBLICATION UNDER §12(a)

MAILING DATE: Nov 21, 2007
PUBLICATION DATE: Dec 11, 2007

The mark identified below will be published in the Official Gazette on Dec 11, 2007. Any party who believes they will be damaged by registration of the mark may oppose its registration by filing an opposition to registration or a request to extend the time to oppose within thirty (30) days from the publication date on this notice. If no opposition is filed within the time specified by law, the USPTO may issue a Notice of Allowance.To view the Official Gazette online or to order a paper copy, visit the USPTO website at http://www.uspto.gov/web/trademarks/tmog/ any time within the five-week period after the date of publication. You may also order a printed version from the U.S. Government Printing Office (GPO) at http://bookstore.gpo.gov or 202-512-1800. To check the status of your application, go to http://tarr.uspto.gov/.

SERIAL NUMBER: **77242240**
MARK: **WATTARAMBUTAN**
OWNER: **Agroamerica Corporation**

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA, VA 22313-1451

FIRST-CLASS
MAIL
U.S POSTAGE
PAID

ALBERT BORDAS, ESQ.
ALBERT BORDAS, P.A.
5975 SUNSET DR STE 607
MIAMI, FL 33143-5174

*** User:fblandu ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	34	17	17	14	0:02	*watta*[bi,ti]
02	6317	N/A	0	0	0:01	*what*[bi,ti]
03	2948148	N/A	0	0	0:06	*a*[bi,ti]
04	6317	N/A	0	0	0:01	2 and 3
05	1422256	N/A	0	0	0:02	031[cc]
06	2726427	N/A	0	0	0:03	dead[ld]
07	1181	0	67	32	0:01	(2 and 5) not 6
08	178	0	20	12	0:02	(*banana*[bi,ti] and 5) not 6
09	12	0	12	12	0:03	(*mngst$n*[bi,ti] and 5) not 6
10	1	0	1	1	0:01	(*lychi*[bi,ti] and 5) not 6
11	7	0	7	6	0:03	(*rmbt$n*[bi,ti] and 5) not 6
12	29	0	29	19	0:02	(*plntin*[bi,ti] and 5) not 6
13	136	0	26	11	0:04	(*p$n$ap*[bi,ti] and 5) not 6

Session started 9/29/2007 2:45:38 PM
Session finished 9/29/2007 3:05:24 PM
Total search duration 0 minutes 31 seconds
Session duration 19 minutes 46 seconds
Defaut NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 77242240

Exhibit G12

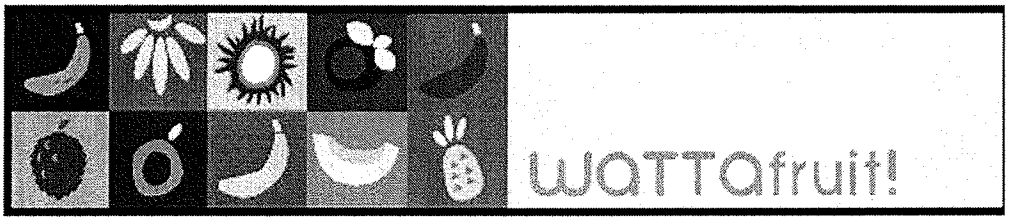
Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-03-28 13:18:17 ET

Serial Number: 77057347 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark



(words only): WATTAFRUIT!

Standard Character claim: No

Current Status: A second request for extension of time to file a Statement of Use has been granted.

Date of Status: 2011-01-19

Filing Date: 2006-12-05

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

The Notice of Allowance Date is: 2009-12-22

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 110

Attorney Assigned:
WOOD CAROLINE

Current Location: 700 -Intent To Use Section

Date In Location: 2011-01-19

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Agroamerica Corporation

Address:
Agroamerica Corporation
Avenida Las Americas 22-83 Zona 14
Ciudad Guatemala
Guatemala
Legal Entity Type: Corporation
State or Country of Incorporation: Br. Virgin Islands
Phone Number: 305-669-9848
Fax Number: 305-669-9851

GOODS AND/OR SERVICES

International Class: 031
Class Status: Active
Fresh fruits and vegetables not sold through restaurants, including quick and full-service restaurants
Basis: 1(b)
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Color(s) Claimed: Color is not claimed as a feature of the mark.

Description of Mark: The mark consists of A depiction of different fruits such as a banana, pineapple, ect. The words WATTAFRUIT! positioned on the right side of the fruits.

Design Search Code(s):
05.09.01 - Berries; Raspberries; Strawberries
05.09.05 - Apples
05.09.09 - Pineapples
05.09.10 - Cantaloupes; Watermelons
05.09.11 - Bananas
05.09.25 - Coconuts; Other fruits
26.01.02 - Circles, plain single line; Plain single line circles
26.09.14 - Squares, three or more; Three or more squares
26.09.16 - Squares touching or intersecting
26.09.21 - Squares that are completely or partially shaded
26.11.09 - Rectangles made of geometric figures, objects, humans, plants or animals
26.11.21 - Rectangles that are completely or partially shaded

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2011-01-20 - Notice Of Approval Of Extension Request E-Mailed

2011-01-19 - Extension 2 granted

2010-12-21 - Extension 2 filed

2011-01-19 - Case Assigned To Intent To Use Paralegal

2010-12-21 - TEAS Extension Received

2010-06-24 - Notice Of Approval Of Extension Request E-Mailed

2010-06-22 - Extension 1 granted

2010-06-22 - Extension 1 filed

2010-06-22 - TEAS Extension Received

2009-12-22 - NOA Mailed - SOU Required From Applicant

2009-11-03 - PAPER RECEIVED

2009-11-09 - TTAB Release Case To Trademarks

2009-11-09 - Opposition terminated for Proceeding

2009-11-09 - Opposition dismissed for Proceeding

2007-09-24 - Opposition instituted for Proceeding

2007-06-14 - Extension Of Time To Oppose Received

2007-05-15 - Published for opposition

2007-04-25 - Notice of publication

2007-03-19 - Law Office Publication Review Completed

2007-03-19 - Assigned To LIE

2007-02-22 - Approved For Pub - Principal Register

2007-02-21 - Assigned To Examiner

2006-12-09 - Notice Of Design Search Code And Pseudo Mark Mailed

2006-12-08 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Albert Bordas, Esq.

Correspondent
Albert Bordas
Albert Bordas, PA
5975 Sunset Dr Ste 607
South Miami, FL 33143-5174
Phone Number: 305-669-9848
Fax Number: 305-669-9851

U.S. Patent and Trademark Office (USPTO)

NOTICE OF ALLOWANCE

NOTE: If any data on this notice is incorrect, please fax a request for correction to the Intent to Use Unit at 571-273-9550. Please include the serial number of your application on ALL correspondence with the USPTO.

ISSUE DATE: Dec 22, 2009

Albert Bordas
Albert Bordas, PA
5975 Sunset Dr Ste 607
South Miami, FL 33143-5174

ATTORNEY
REFERENCE NUMBER

060226

** IMPORTANT INFORMATION: 6 MONTH DEADLINE **

You filed the trademark application identified below based upon a bona fide intention to use the mark in commerce. You must use the mark in commerce and file a Statement of Use (a.k.a. Allegation of Use) before the USPTO will register the mark. You have six (6) MONTHS from the ISSUE DATE of this Notice of Allowance (NOA) to file either a Statement of Use, or if you are not yet using the mark in commerce, a Request for Extension of Time to File a Statement of Use ("Extension Request"). If you file an extension request, you must continue to file a new request every six months calculated from the issue date of the NOA until the Statement of Use is filed. Applicant may file a total of five (5) extension requests. FAILURE TO FILE A REQUIRED DOCUMENT DURING THE APPROPRIATE TIME PERIOD WILL RESULT IN THE ABANDONMENT OF YOUR APPLICATION.Please note that both the "Statement of Use " and "Extension Request" have many legal requirements including fees. Therefore, we encourage use of the USPTO forms, available online at http://www.uspto.gov/teas/index.html (under "INTENT-TO-USE (ITU) FORMS"), to avoid the possible omission of important information. Please note that the Trademark Electronic Application System (TEAS) provides line-by-line help instructions for completing the Extension Request or Statement of Use forms online. If you do not have access to the Internet, you may call 1-800-786-9199 to request the printed form(s).

**** Registration Subject to Cancellation for Fraudulent Statements ****

Ensure that statements made in filings to the USPTO are accurate, as inaccuracies may result in the cancellation of your trademark registration. The lack of a bona fide intention to use the mark with all goods and/or services included in an application or the lack of use on all goods and/or services for which you claimed use could jeopardize the validity of your registration, possibly resulting in its cancellation.

The following information should be reviewed for accuracy:

SERIAL NUMBER: 77/057347

MARK: WATTAFRUIT! (AND DESIGN)

OWNER: Agroamerica Corporation
Avenida Las Americas 22-83 Zona 14
Ciudad Guatemala , GUATEMALA

This application has the following bases, but not necessarily for all listed goods/services:

Section 1(a): NO Section 1(b): YES Section 44(e): NO

GOODS/SERVICES BY INTERNATIONAL CLASS

031 - Fresh fruits and vegetables not sold through restaurants, including quick and full-service restaurants -- FIRST USE DATE: NONE; -- USE IN COMMERCE DATE: NONE

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED

ADDITIONAL INFORMATION MAY BE PRESENT IN THE USPTO RECORDS

Side - 1

NOTICE OF PUBLICATION UNDER §12(a)

MAILING DATE: Apr 25, 2007
PUBLICATION DATE: May 15, 2007

The mark identified below will be published in the Official Gazette on May 15, 2007. Any party who believes they will be damaged by registration of the mark may oppose its registration by filing an opposition to registration or a request to extend the time to oppose within thirty (30) days from the publication date on this notice. If no opposition is filed within the time specified by law, the USPTO may issue a Notice of Allowance.To view the Official Gazette online or to order a paper copy, visit the USPTO website at http://www.uspto.gov/web/trademarks/tmog/ any time within the five-week period after the date of publication. You may also order a printed version from the U.S. Government Printing Office (GPO) at http://bookstore.gpo.gov or 202-512-1800. To check the status of your application, go to http://tarr.uspto.gov/.

SERIAL NUMBER: **77057347**
MARK: **WATTAFRUIT!**
OWNER: **Agroamerica Corporation**

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA, VA 22313-1451

FIRST-CLASS
MAIL
U.S POSTAGE
PAID

ALBERT BORDAS ESQ
ALBERT BORDAS PA
5975 SUNSET DR STE 607
SOUTH MIAMI, FL 33143-5174

*** User:CWood ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	1	0	1	1	0:01	77013481[SN]
02	33	19	1	1	0:02	*w{v:1}tta*[bi,ti]
03	14	0	14	8	0:03	2 not dead[ld]
04	63	N/A	0	0	0:01	*wata*[bi,ti]
05	30	0	30	20	0:01	4 not 3 not dead[ld]
06	77	N/A	0	0	0:01	*watt{v:1}*[bi,ti]
07	24	0	24	17	0:01	6 not 5 not 4 not 3 not dead[ld]
08	1	0	1	1	0:01	*watt{v:1}fr*[bi,ti]
09	5873	N/A	0	0	0:01	*what*[bi,ti]
10	91556	N/A	0	0	0:01	a[bi,ti]
11	556	N/A	0	0	0:01	9 and 10
12	243	N/A	0	0	0:01	11 not 7 not 5 not 4 not 3 not dead[ld]
13	1356157	N/A	0	0	0:03	"031"[cc]
14	102	0	102	48	0:01	12 and 13
15	69	N/A	0	0	0:01	*whata*[bi,ti]
16	20	0	20	10	0:01	15 not 14 not 7 not 5 not 4 not 3 not dead[ld]
17	910	N/A	0	0	0:01	"050901"[dc]
18	3089	N/A	0	0	0:01	"050905"[dc]
19	595	N/A	0	0	0:01	"050909"[dc]
20	177	N/A	0	0	0:01	"050910"[dc]
21	517	N/A	0	0	0:01	"050911"[dc]
22	1091	N/A	0	0	0:01	"050925"[dc]
23	246	N/A	0	0	0:01	17 and (18 or 19 or 20 or 21 or 22)
24	239	N/A	0	0	0:01	18 and (19 or 20 or 21 or 22)
25	154	N/A	0	0	0:01	19 and (20 or 21 or 22)
26	49	N/A	0	0	0:01	20 and (21 or 22)
27	84	N/A	0	0	0:01	21 and 22
28	122	0	122	122	0:03	23 not dead[ld]
29	73	0	73	73	0:01	24 not 23 not dead[ld]
30	28	0	28	28	0:02	25 not 24 not 23 not dead[ld]
31	5	0	5	5	0:02	26 not 25 not 24 not 23 not dead[ld]
32	8	0	8	8	0:01	27 not 26 not 25 not 24 not 23 not dead[ld]
33	4273	N/A	0	0	0:01	"260914"[dc]
34	116855	N/A	0	0	0:01	"261121"[dc]
35	31014	N/A	0	0	0:01	"260921"[dc]
36	459	N/A	0	0	0:01	33 and 34 and 35
37	423	N/A	0	0	0:01	36 not 28 not 26 not 25 not 24 not 23 not dead[ld]
38	173	0	173	173	0:02	13 and 37

Session started 2/22/2007 9:05:49 AM

Session finished 2/22/2007 9:26:31 AM
Total search duration 0 minutes 48 seconds
Session duration 20 minutes 42 seconds
Defaut NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 77057347

Exhibit G13

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-03-28 13:19:14 ET

Serial Number: 77242273 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

Wattalychi

(words only): WATTALYCHI

Standard Character claim: Yes

Current Status: A fifth request for extension of time to file a Statement of Use has been granted.

Date of Status: 2010-09-13

Filing Date: 2007-07-30

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

The Notice of Allowance Date is: 2008-03-04

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 117

Attorney Assigned:
BLANDU FLORENTINA

Current Location: 450 -Petitions Office

Date In Location: 2009-11-20

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Agroamerica Corporation

Address:
Agroamerica Corporation
Avenida Las Americas 22-83 Zona 14
Ciudad Guatemala
Guatemala
Legal Entity Type: Corporation
State or Country of Incorporation: Br. Virgin Islands
Phone Number: 305-669-9848
Fax Number: 305-669-9851

GOODS AND/OR SERVICES

International Class: 031
Class Status: Active
Fresh fruits; Fresh vegetables
Basis: 1(b)
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-09-14 - Notice Of Approval Of Extension Request E-Mailed

2010-09-13 - Extension 5 granted

2010-08-31 - Extension 5 filed

2010-08-31 - TEAS Extension Received

2010-03-01 - Extension 4 granted

2010-02-24 - Extension 4 filed

2010-02-24 - TEAS Extension Received

2009-11-03 - Amendment After NOA Not Entered

2009-11-03 - TEAS Post Publication Amendment Received

2009-08-19 - Extension 3 granted

2009-08-17 - Extension 3 filed

2009-08-17 - TEAS Extension Received

2009-03-18 - Extension 2 granted

2009-03-02 - Extension 2 filed

2009-03-18 - Case Assigned To Intent To Use Paralegal

2009-03-02 - TEAS Extension Received

2008-09-03 - Extension 1 granted

2008-09-03 - Extension 1 filed

2008-09-03 - TEAS Extension Received

2008-03-04 - NOA Mailed - SOU Required From Applicant

2007-12-11 - Published for opposition

2007-11-21 - Notice of publication

2007-11-03 - Law Office Publication Review Completed

2007-11-03 - Assigned To LIE

2007-10-01 - Approved For Pub - Principal Register

2007-09-28 - Assigned To Examiner

2007-08-02 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Albert Bordas, Esq.

Correspondent
Albert Bordas, Esq.
ALBERT BORDAS, P.A.
5975 SUNSET DR STE 607
MIAMI FL 33143-5174
Phone Number: 305-669-9848
Fax Number: 305-669-9851

U.S. Patent and Trademark Office (USPTO)

NOTICE OF ALLOWANCE

NOTE: If any data on this notice is incorrect, please fax a request for correction to the Intent to Use Unit at 571-273-9550. Please include the serial number of your application on ALL correspondence with the USPTO.

ISSUE DATE: Mar 4, 2008

ALBERT BORDAS, ESQ.
ALBERT BORDAS, P.A.
5975 SUNSET DR STE 607
MIAMI, FL 33143-5174

ATTORNEY
REFERENCE NUMBER

070146

** IMPORTANT INFORMATION: 6 MONTH DEADLINE **

You filed the trademark application identified below based upon a bona fide intention to use the mark in commerce. You must use the mark in commerce and file a Statement of Use (a.k.a. Allegation of Use) before the USPTO will register the mark. You have six (6) MONTHS from the ISSUE DATE of this Notice of Allowance (NOA) to file either a Statement of Use, or if you are not yet using the mark in commerce, a Request for Extension of Time to File a Statement of use ("Extension Request"). If you file an extension request, you must continue to file a new request every six months until the Statement of Use is filed. Applicant may file a total of five (5) extension requests. FAILURE TO FILE A REQUIRED DOCUMENT DURING THE APPROPRIATE TIME PERIOD WILL RESULT IN THE ABANDONMENT OF YOUR APPLICATION.Please note that both the "Statement of Use " and "Extension Request" have many legal requirements including fees. Therefore, we encourage use of the USPTO forms, available online at http://www.uspto.gov/teas/index.html (under "File a PRE-registration form"), to avoid the possible omission of important information. Please note that the Trademark Electronic Application System (TEAS) provides line-by-line help instructions for completing the Extension Request or Statement of Use forms online. If you do not have access to the Internet, you may call 1-800-786-9199 to request the printed form(s).

The following information should be reviewed for accuracy:

SERIAL NUMBER:	77/242273
MARK:	WATTALYCHI (STANDARD CHARACTER MARK)
OWNER:	Agroamerica Corporation Avenida Las Americas 22-83 Zona 14 Ciudad Guatemala , GUATEMALA

This application has the following bases, but not necessarily for all listed goods/services:

Section 1(a): NO Section 1(b): YES Section 44(e): NO

GOODS/SERVICES BY INTERNATIONAL CLASS

031 - Fresh fruits; Fresh vegetables -- FIRST USE DATE: NONE; -- USE IN COMMERCE DATE: NONE

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED

ADDITIONAL INFORMATION MAY BE PRESENT IN THE USPTO RECORDS

Side - 1

NOTICE OF PUBLICATION UNDER §12(a)

MAILING DATE: Nov 21, 2007
PUBLICATION DATE: Dec 11, 2007

The mark identified below will be published in the Official Gazette on Dec 11, 2007. Any party who believes they will be damaged by registration of the mark may oppose its registration by filing an opposition to registration or a request to extend the time to oppose within thirty (30) days from the publication date on this notice. If no opposition is filed within the time specified by law, the USPTO may issue a Notice of Allowance.To view the Official Gazette online or to order a paper copy, visit the USPTO website at http://www.uspto.gov/web/trademarks/tmog/ any time within the five-week period after the date of publication. You may also order a printed version from the U.S. Government Printing Office (GPO) at http://bookstore.gpo.gov or 202-512-1800. To check the status of your application, go to http://tarr.uspto.gov/.

SERIAL NUMBER: **77242273**
MARK: **WATTALYCHI**
OWNER: **Agroamerica Corporation**

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA, VA 22313-1451

FIRST-CLASS
MAIL
U.S POSTAGE
PAID

ALBERT BORDAS, ESQ.
ALBERT BORDAS, P.A.
5975 SUNSET DR STE 607
MIAMI, FL 33143-5174

*** User:fblandu ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	34	17	17	14	0:02	*watta*[bi,ti]
02	6317	N/A	0	0	0:01	*what*[bi,ti]
03	2948148	N/A	0	0	0:06	*a*[bi,ti]
04	6317	N/A	0	0	0:01	2 and 3
05	1422256	N/A	0	0	0:02	031[cc]
06	2726427	N/A	0	0	0:03	dead[ld]
07	1181	0	67	32	0:01	(2 and 5) not 6
08	178	0	20	12	0:02	(*banana*[bi,ti] and 5) not 6
09	12	0	12	12	0:03	(*mngst$n*[bi,ti] and 5) not 6
10	1	0	1	1	0:01	(*lychi*[bi,ti] and 5) not 6
11	7	0	7	6	0:03	(*rmbt$n*[bi,ti] and 5) not 6
12	29	0	29	19	0:02	(*plntin*[bi,ti] and 5) not 6
13	136	0	26	11	0:04	(*p$n$ap*[bi,ti] and 5) not 6

Session started 9/29/2007 2:45:38 PM
Session finished 9/29/2007 3:05:10 PM
Total search duration 0 minutes 31 seconds
Session duration 19 minutes 32 seconds
Defaut NEAR limit=1 ADJ limit=1

Sent to TICRS as Serial Number: 77242273

Exhibit G14

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-03-28 13:20:26 ET

Serial Number: 77242304 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

Wattamangostin

(words only): WATTAMANGOSTIN

Standard Character claim: Yes

Current Status: A fifth request for extension of time to file a Statement of Use has been granted.

Date of Status: 2010-09-13

Filing Date: 2007-07-30

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

The Notice of Allowance Date is: 2008-03-04

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 117

Attorney Assigned:
BLANDU FLORENTINA

Current Location: 450 -Petitions Office

Date In Location: 2009-11-20

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Agroamerica Corporation

Address:
Agroamerica Corporation
Avenida Las Americas 22-83 Zona 14
Ciudad Guatemala
Guatemala
Legal Entity Type: Corporation
State or Country of Incorporation: Br. Virgin Islands
Phone Number: 305-669-9848
Fax Number: 305-669-9851

GOODS AND/OR SERVICES

International Class: 031
Class Status: Active
Fresh fruits; Fresh vegetables
Basis: 1(b)
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-09-14 - Notice Of Approval Of Extension Request E-Mailed

2010-09-13 - Extension 5 granted

2010-08-31 - Extension 5 filed

2010-08-31 - TEAS Extension Received

2010-03-01 - Extension 4 granted

2010-02-24 - Extension 4 filed

2010-02-24 - TEAS Extension Received

2009-11-03 - Amendment After NOA Not Entered

2009-11-03 - TEAS Post Publication Amendment Received

2009-08-19 - Extension 3 granted

2009-08-17 - Extension 3 filed

2009-08-17 - TEAS Extension Received

2009-03-18 - Extension 2 granted

2009-03-02 - Extension 2 filed

2009-03-18 - Case Assigned To Intent To Use Paralegal

2009-03-02 - TEAS Extension Received

2008-09-03 - Extension 1 granted

2008-09-03 - Extension 1 filed

2008-09-03 - TEAS Extension Received

2008-03-04 - NOA Mailed - SOU Required From Applicant

2007-12-11 - Published for opposition

2007-11-21 - Notice of publication

2007-11-03 - Law Office Publication Review Completed

2007-11-03 - Assigned To LIE

2007-10-01 - Approved For Pub - Principal Register

2007-09-28 - Assigned To Examiner

2007-08-02 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Albert Bordas, Esq.

Correspondent
Albert Bordas, Esq.
ALBERT BORDAS, P.A.
5975 SUNSET DR STE 607
MIAMI FL 33143-5174
Phone Number: 305-669-9848
Fax Number: 305-669-9851

U.S. Patent and Trademark Office (USPTO)

NOTICE OF ALLOWANCE

NOTE: If any data on this notice is incorrect, please fax a request for correction to the Intent to Use Unit at 571-273-9550. Please include the serial number of your application on ALL correspondence with the USPTO.

ISSUE DATE: Mar 4, 2008

ALBERT BORDAS, ESQ.
ALBERT BORDAS, P.A.
5975 SUNSET DR STE 607
MIAMI, FL 33143-5174

ATTORNEY
REFERENCE NUMBER

070147

** IMPORTANT INFORMATION: 6 MONTH DEADLINE **

You filed the trademark application identified below based upon a bona fide intention to use the mark in commerce. You must use the mark in commerce and file a Statement of Use (a.k.a. Allegation of Use) before the USPTO will register the mark. You have six (6) MONTHS from the ISSUE DATE of this Notice of Allowance (NOA) to file either a Statement of Use, or if you are not yet using the mark in commerce, a Request for Extension of Time to File a Statement of use ("Extension Request"). If you file an extension request, you must continue to file a new request every six months until the Statement of Use is filed. Applicant may file a total of five (5) extension requests. FAILURE TO FILE A REQUIRED DOCUMENT DURING THE APPROPRIATE TIME PERIOD WILL RESULT IN THE ABANDONMENT OF YOUR APPLICATION.Please note that both the "Statement of Use " and "Extension Request" have many legal requirements including fees. Therefore, we encourage use of the USPTO forms, available online at http://www.uspto.gov/teas/index.html (under "File a PRE-registration form"), to avoid the possible omission of important information. Please note that the Trademark Electronic Application System (TEAS) provides line-by-line help instructions for completing the Extension Request or Statement of Use forms online. If you do not have access to the Internet, you may call 1-800-786-9199 to request the printed form(s).

The following information should be reviewed for accuracy:

SERIAL NUMBER:	77/242304
MARK:	WATTAMANGOSTIN (STANDARD CHARACTER MARK)
OWNER:	Agroamerica Corporation Avenida Las Americas 22-83 Zona 14 Ciudad Guatemala , GUATEMALA

This application has the following bases, but not necessarily for all listed goods/services:

Section 1(a): NO Section 1(b): YES Section 44(e): NO

GOODS/SERVICES BY INTERNATIONAL CLASS

031 - Fresh fruits; Fresh vegetables -- FIRST USE DATE: NONE; -- USE IN COMMERCE DATE: NONE

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED

ADDITIONAL INFORMATION MAY BE PRESENT IN THE USPTO RECORDS

Side - 1

NOTICE OF PUBLICATION UNDER §12(a)

MAILING DATE: Nov 21, 2007
PUBLICATION DATE: Dec 11, 2007

The mark identified below will be published in the Official Gazette on Dec 11, 2007. Any party who believes they will be damaged by registration of the mark may oppose its registration by filing an opposition to registration or a request to extend the time to oppose within thirty (30) days from the publication date on this notice. If no opposition is filed within the time specified by law, the USPTO may issue a Notice of Allowance.To view the Official Gazette online or to order a paper copy, visit the USPTO website at http://www.uspto.gov/web/trademarks/tmog/ any time within the five-week period after the date of publication. You may also order a printed version from the U.S. Government Printing Office (GPO) at http://bookstore.gpo.gov or 202-512-1800. To check the status of your application, go to http://tarr.uspto.gov/.

SERIAL NUMBER: **77242304**
MARK: **WATTAMANGOSTIN**
OWNER: **Agroamerica Corporation**

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA, VA 22313-1451

FIRST-CLASS
MAIL
U.S POSTAGE
PAID

ALBERT BORDAS, ESQ.
ALBERT BORDAS, P.A.
5975 SUNSET DR STE 607
MIAMI, FL 33143-5174

*** User:fblandu ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	34	17	17	14	0:02	*watta*[bi,ti]
02	6317	N/A	0	0	0:01	*what*[bi,ti]
03	2948148	N/A	0	0	0:06	*a*[bi,ti]
04	6317	N/A	0	0	0:01	2 and 3
05	1422256	N/A	0	0	0:02	031[cc]
06	2726427	N/A	0	0	0:03	dead[ld]
07	1181	0	67	32	0:01	(2 and 5) not 6
08	178	0	20	12	0:02	(*banana*[bi,ti] and 5) not 6
09	12	0	12	12	0:03	(*mngst$n*[bi,ti] and 5) not 6
10	1	0	1	1	0:01	(*lychi*[bi,ti] and 5) not 6
11	7	0	7	6	0:03	(*rmbt$n*[bi,ti] and 5) not 6
12	29	0	29	19	0:02	(*plntin*[bi,ti] and 5) not 6
13	136	0	26	11	0:04	(*p$n$ap*[bi,ti] and 5) not 6

Session started 9/29/2007 2:45:38 PM
Session finished 9/29/2007 3:04:45 PM
Total search duration 0 minutes 31 seconds
Session duration 19 minutes 7 seconds
Defaut NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 77242304

Exhibit G15

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-03-28 13:23:25 ET

Serial Number: 77242211 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

Wattaplantain

(words only): WATTAPLANTAIN

Standard Character claim: Yes

Current Status: A fifth request for extension of time to file a Statement of Use has been granted.

Date of Status: 2010-09-13

Filing Date: 2007-07-30

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

The Notice of Allowance Date is: 2008-03-04

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 117

Attorney Assigned:
BLANDU FLORENTINA

Current Location: 450 -Petitions Office

Date In Location: 2009-11-20

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Agroamerica Corporation

Address:
Agroamerica Corporation
Avenida Las Americas 22-83 Zona 14
Ciudad Guatemala
Guatemala
Legal Entity Type: Corporation
State or Country of Incorporation: Br. Virgin Islands
Phone Number: 305-669-9848
Fax Number: 305-669-9851

GOODS AND/OR SERVICES

International Class: 031
Class Status: Active
Fresh fruits; Fresh vegetables
Basis: 1(b)
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-09-14 - Notice Of Approval Of Extension Request E-Mailed

2010-09-13 - Extension 5 granted

2010-08-31 - Extension 5 filed

2010-08-31 - TEAS Extension Received

2010-03-01 - Extension 4 granted

2010-02-24 - Extension 4 filed

2010-02-24 - TEAS Extension Received

2009-11-03 - Amendment After NOA Not Entered

2009-11-03 - TEAS Post Publication Amendment Received.

2009-08-19 - Extension 3 granted

2009-08-17 - Extension 3 filed

2009-08-17 - TEAS Extension Received

2009-03-18 - Extension 2 granted

2009-03-02 - Extension 2 filed

2009-03-18 - Case Assigned To Intent To Use Paralegal

2009-03-02 - TEAS Extension Received

2008-09-03 - Extension 1 granted

2008-09-03 - Extension 1 filed

2008-09-03 - TEAS Extension Received

2008-03-04 - NOA Mailed - SOU Required From Applicant

2007-12-11 - Published for opposition

2007-11-21 - Notice of publication

2007-11-03 - Law Office Publication Review Completed

2007-11-03 - Assigned To LIE

2007-10-01 - Approved For Pub - Principal Register

2007-09-28 - Assigned To Examiner

2007-08-03 - Notice Of Pseudo Mark Mailed

2007-08-02 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Albert Bordas, Esq.

Correspondent
Albert Bordas, Esq.
ALBERT BORDAS, P.A.
5975 SUNSET DR STE 607
MIAMI FL 33143-5174
Phone Number: 305-669-9848
Fax Number: 305-669-9851

U.S. Patent and Trademark Office (USPTO)

NOTICE OF ALLOWANCE

NOTE: If any data on this notice is incorrect, please fax a request for correction to the Intent to Use Unit at 571-273-9550. Please include the serial number of your application on ALL correspondence with the USPTO.

ISSUE DATE: Mar 4, 2008

ALBERT BORDAS, ESQ.
ALBERT BORDAS, P.A.
5975 SUNSET DR STE 607
MIAMI, FL 33143-5174

ATTORNEY
REFERENCE NUMBER

070143

** IMPORTANT INFORMATION: 6 MONTH DEADLINE **

You filed the trademark application identified below based upon a bona fide intention to use the mark in commerce. You must use the mark in commerce and file a Statement of Use (a.k.a. Allegation of Use) before the USPTO will register the mark. You have six (6) MONTHS from the ISSUE DATE of this Notice of Allowance (NOA) to file either a Statement of Use, or if you are not yet using the mark in commerce, a Request for Extension of Time to File a Statement of use ("Extension Request"). If you file an extension request, you must continue to file a new request every six months until the Statement of Use is filed. Applicant may file a total of five (5) extension requests. FAILURE TO FILE A REQUIRED DOCUMENT DURING THE APPROPRIATE TIME PERIOD WILL RESULT IN THE ABANDONMENT OF YOUR APPLICATION.Please note that both the "Statement of Use " and "Extension Request" have many legal requirements including fees. Therefore, we encourage use of the USPTO forms, available online at http://www.uspto.gov/teas/index.html (under "File a PRE-registration form"), to avoid the possible omission of important information. Please note that the Trademark Electronic Application System (TEAS) provides line-by-line help instructions for completing the Extension Request or Statement of Use forms online. If you do not have access to the Internet, you may call 1-800-786-9199 to request the printed form(s).

The following information should be reviewed for accuracy:

SERIAL NUMBER:	77/242211
MARK:	WATTAPLANTAIN (STANDARD CHARACTER MARK)
OWNER:	Agroamerica Corporation Avenida Las Americas 22-83 Zona 14 Ciudad Guatemala , GUATEMALA

This application has the following bases, but not necessarily for all listed goods/services:

Section 1(a): NO Section 1(b): YES Section 44(e): NO

GOODS/SERVICES BY INTERNATIONAL CLASS

031 - Fresh fruits; Fresh vegetables -- FIRST USE DATE: NONE; -- USE IN COMMERCE DATE: NONE

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED

ADDITIONAL INFORMATION MAY BE PRESENT IN THE USPTO RECORDS

Side - 1

NOTICE OF PUBLICATION UNDER §12(a)

MAILING DATE: Nov 21, 2007
PUBLICATION DATE: Dec 11, 2007

The mark identified below will be published in the Official Gazette on Dec 11, 2007. Any party who believes they will be damaged by registration of the mark may oppose its registration by filing an opposition to registration or a request to extend the time to oppose within thirty (30) days from the publication date on this notice. If no opposition is filed within the time specified by law, the USPTO may issue a Notice of Allowance.To view the Official Gazette online or to order a paper copy, visit the USPTO website at http://www.uspto.gov/web/trademarks/tmog/ any time within the five-week period after the date of publication. You may also order a printed version from the U.S. Government Printing Office (GPO) at http://bookstore.gpo.gov or 202-512-1800. To check the status of your application, go to http://tarr.uspto.gov/.

SERIAL NUMBER: **77242211**
MARK: **WATTAPLANTAIN**
OWNER: **Agroamerica Corporation**

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA, VA 22313-1451

FIRST-CLASS
MAIL
U.S POSTAGE
PAID

ALBERT BORDAS, ESQ.
ALBERT BORDAS, P.A.
5975 SUNSET DR STE 607
MIAMI, FL 33143-5174

*** User:fblandu ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	34	17	17	14	0:02	*watta*[bi,ti]
02	6317	N/A	0	0	0:01	*what*[bi,ti]
03	2948148	N/A	0	0	0:06	*a*[bi,ti]
04	6317	N/A	0	0	0:01	2 and 3
05	1422256	N/A	0	0	0:02	031[cc]
06	2726427	N/A	0	0	0:03	dead[ld]
07	1181	0	67	32	0:01	(2 and 5) not 6
08	178	0	20	12	0:02	(*banana*[bi,ti] and 5) not 6
09	12	0	12	12	0:03	(*mngst$n*[bi,ti] and 5) not 6
10	1	0	1	1	0:01	(*lychi*[bi,ti] and 5) not 6
11	7	0	7	6	0:03	(*rmbt$n*[bi,ti] and 5) not 6
12	29	0	29	19	0:02	(*plntin*[bi,ti] and 5) not 6
13	136	0	26	11	0:04	(*p$n$ap*[bi,ti] and 5) not 6

Session started 9/29/2007 2:45:38 PM
Session finished 9/29/2007 3:05:36 PM
Total search duration 0 minutes 31 seconds
Session duration 19 minutes 58 seconds
Defaut NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 77242211

Exhibit G16

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-03-28 13:24:20 ET

Serial Number: 78554040 Assignment Information Trademark Document Retrieval

Registration Number: 3155106

Mark

WHAT A PICKLE!

(words only): WHAT A PICKLE!

Standard Character claim: Yes

Current Status: A cancellation proceeding is pending at the Trademark Trial and Appeal Board. For further information, see TTABVUE on the Trademark Trial and Appeal Board web page.

Date of Status: 2008-10-22

Filing Date: 2005-01-26

Transformed into a National Application: No

Registration Date: 2006-10-10

Register: Principal

Law Office Assigned: LAW OFFICE 112

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2006-08-30

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Gielow Pickles, Inc

Address:
Gielow Pickles, Inc
5260 Main St
Lexington, MI 48450
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Michigan
Phone Number: 810 359 7680
Fax Number: 810 359 2408

GOODS AND/OR SERVICES

International Class: 029
Class Status: Active
Pickles
Basis: 1(a)
First Use Date: 2005-01-26
First Use in Commerce Date: 2006-02-01

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-10-22 - Cancellation Instituted No. 999999

2006-10-10 - Registered - Principal Register

2006-08-28 - Law Office Registration Review Completed

2006-08-24 - Assigned To LIE

2006-08-11 - Allowed for Registration - Principal Register (SOU accepted)

2006-08-07 - Assigned To Examiner

2006-08-04 - Statement Of Use Processing Complete

2006-07-10 - Use Amendment Filed

2006-07-10 - TEAS Statement of Use Received

2006-01-17 - NOA Mailed - SOU Required From Applicant

2005-10-25 - Published for opposition

2005-10-05 - Notice of publication

2005-09-07 - Law Office Publication Review Completed

2005-09-07 - Assigned To LIE

2005-08-25 - Approved For Pub - Principal Register

2005-08-24 - Assigned To Examiner

2005-02-03 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent
TIMOTHY C KINGSTON
LAW OFFICE OF TIM KINGSTON LLC
408 WEST 23RD STREET SUITE ONE
CHEYENNE, WY 48450
Phone Number: 810 359 7680
Fax Number: 810 359 2408

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 3,155,106

Registered Oct. 10, 2006

TRADEMARK
PRINCIPAL REGISTER

WHAT A PICKLE!

GIELOW PICKLES, INC (MICHIGAN CORPORATION)
5260 MAIN ST
LEXINGTON, MI 48450

FOR: PICKLES, IN CLASS 29 (U.S. CL. 46).

FIRST USE 1-26-2005; IN COMMERCE 2-1-2006.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 78-554,040, FILED 1-26-2005.

CHARISMA HAMPTON, EXAMINING ATTORNEY

U.S. Patent and Trademark Office (USPTO)

NOTICE OF ALLOWANCE

NOTE: If any data on this notice is incorrect, please fax a request for correction to the Intent to Use Unit at 571-273-9550. Please include the serial number of your application on ALL correspondence with the USPTO.

ISSUE DATE: Jan 17, 2006

GIELOW PICKLES, INC
5260 MAIN ST
LEXINGTON, MI 48450-9393

** IMPORTANT INFORMATION: 6 MONTH DEADLINE **

You filed the trademark application identified below based upon a bona fide intention to use the mark in commerce. You must use the mark in commerce and file a Statement of Use (a.k.a. Allegation of Use) before the USPTO will register the mark. You have six (6) MONTHS from the ISSUE DATE of this Notice of Allowance (NOA) to file either a Statement of Use, or if you are not yet using the mark in commerce, a Request for Extension of Time to File a Statement of use ("Extension Request"). If you file an extension request, you must continue to file a new request every six months until the Statement of Use is filed. Applicant may file a total of five (5) extension requests. FAILURE TO FILE A REQUIRED DOCUMENT DURING THE APPROPRIATE TIME PERIOD WILL RESULT IN THE ABANDONMENT OF YOUR APPLICATION.Please note that both the "Statement of Use " and "Extension Request" have many legal requirements including fees. Therefore, we encourage use of the USPTO forms, available online at http://www.uspto.gov/teas/index.html (under "File a PRE-registration form"), to avoid the possible omission of important information. Please note that the Trademark Electronic Application System (TEAS) provides line-by-line help instructions for completing the Extension Request or Statement of Use forms online. If you do not have access to the Internet, you may call 1-800-786-9199 to request the printed form(s).

The following information should be reviewed for accuracy:

SERIAL NUMBER:	78/554040
MARK:	WHAT A PICKLE! (STANDARD CHARACTER MARK)
OWNER:	Gielow Pickles, Inc
	5260 Main St Lexington , MICHIGAN 48450

This application has the following bases, but not necessarily for all listed goods/services:

Section 1(a): NO Section 1(b): YES Section 44(e): NO

GOODS/SERVICES BY INTERNATIONAL CLASS

029 - Pickles

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED

ADDITIONAL INFORMATION MAY BE PRESENT IN THE USPTO RECORDS

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451
www.uspto.gov

Oct 5, 2005

NOTICE OF PUBLICATION UNDER 12(a)

1. Serial No.:
78/554,040

2. Mark:
WHAT A PICKLE!
Standard Character Mark

3. International Class(es):
29

4. Publication Date:
Oct 25, 2005

5. Applicant:
Gielow Pickles, Inc

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the Official Gazette on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a notice of allowance pursuant to section 13(b) of the Statute.

Copies of the trademark portion of the Official Gazette containing the publication of the mark may be obtained from:

The Superintendent of Documents
U.S. Government Printing Office
PO Box 371954
Pittsburgh, PA 15250-7954
Phone: 202-512-1800

By direction of the Commissioner.

Correspondence Address:

GIELOW PICKLES, INC
5260 MAIN ST
LEXINGTON, MI 48450-9393

TMP&I

*** User:jkrisp ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	1	0	1	1	0:01	78554040[SN]
02	22494	N/A	0	0	0:01	*wat*[ti,bi] or *what*[ti,bi]
03	2391	N/A	0	0	0:01	*pick$l*[ti,bi] or *pi{"qck"}$l*[ti,bi]
04	18	6	12	9	0:01	2 and 3
05	11	8	3	1	0:01	"a pickle"[ti,bi]

Session started 8/24/2005 7:07:55 PM
Session finished 8/24/2005 7:11:22 PM
Total search duration 0 minutes 5 seconds
Session duration 3 minutes 27 seconds
Defaut NEAR limit=1 ADJ limit=1

Sent to TICRS as Serial Number: 78554040

Exhibit G17

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-03-28 13:25:07 ET

Serial Number: 85003764 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

What-A-Nut!

(words only): WHAT A NUT!

Standard Character claim: No

Current Status: A request for an extension of time to file an opposition has been filed with the Trademark Trial and Appeal Board. For further information, see TTABVUE on the Trademark Trial and Appeal Board web page.

Date of Status: 2011-03-15

Filing Date: 2010-04-01

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 117

Attorney Assigned:
LEE DOUGLAS M

Current Location: 650 -Publication And Issue Section

Date In Location: 2011-02-02

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Panikowski, Linda

DBA/AKA/TA/Formerly: DBA What-A-Nut!
Address:
Panikowski, Linda
Unit 62 565 Clark Avenue
Bristol, CT 06010
United States
Legal Entity Type: Individual
Country of Citizenship: United States
Phone Number: 860-919-3546

GOODS AND/OR SERVICES

International Class: 029
Class Status: Active
Candied nuts; Seasoned nuts
Basis: 1(b)
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Color(s) Claimed: Color is not claimed as a feature of the mark.

Description of Mark: The mark consists of the stylized wording "WHAT-A-NUT!".

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2011-03-15 - Extension Of Time To Oppose Received

2011-03-08 - Notice Of Publication E-Mailed

2011-03-08 - Published for opposition

2011-02-02 - Law Office Publication Review Completed

2011-02-02 - Assigned To LIE

2011-01-05 - Approved For Pub - Principal Register

2011-01-05 - Examiner's Amendment Entered

2011-01-05 - Notification Of Examiners Amendment E-Mailed

2011-01-05 - EXAMINERS AMENDMENT E-MAILED

2011-01-05 - Examiners Amendment -Written

2011-01-04 - Teas/Email Correspondence Entered

2011-01-03 - Communication received from applicant

2011-01-03 - TEAS Response to Office Action Received

2010-07-02 - Notification Of Examiner's Amendment/Priority Action E-Mailed

2010-07-02 - Examiner's Amendment/Priority Action E-Mailed

2010-07-02 - Examiners Amendment And/Or Priority Action - Completed

2010-07-01 - Assigned To Examiner

2010-04-06 - New Application Office Supplied Data Entered In Tram

2010-04-05 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent
LINDA PANIKOWSKI
565 CLARK AVE UNIT 62
BRISTOL, CT 06010-4054
Phone Number: 860-919-3546

From: TMOfficialNotices@USPTO.GOV
Sent: Tuesday, March 8, 2011 00:37 AM
To: whatanutstore@yahoo.com
Subject: Official USPTO Notice of Publication: Serial Number 85003764

NOTICE OF PUBLICATION

Serial Number: 85-003,764
Mark: WHAT A NUT!(SYTLIZED/DESIGN)
International Class(es): 029
Applicant: Panikowski, Linda
Attorney Reference Number:

The mark identified above has been published in the *Trademark Official Gazette* (OG) on Mar 08, 2011. Any party who believes it will be damaged by the registration of the mark may file a notice of opposition (or extension of time therefor) with the Trademark Trial and Appeal Board. If no party files an opposition or extension request within thirty (30) days after the publication date, then within twelve (12) weeks of the publication date a notice of allowance (NOA) should issue. (Note: The applicant must file a Statement of Use or Extension Request within six (6) months after the NOA issues.)

On the publication date or shortly thereafter, the applicant should carefully review the information that appears in the OG for accuracy (see steps, *below*). If any information is incorrect, the applicant should immediately email the requested correction to **TMPostPubQuery@uspto.gov**. For general information about this notice, please contact the Trademark Assistance Center at 1-800-786-9199.

1. Click on the following link or paste the URL into an internet browser:
http://www.uspto.gov/web/trademarks/tmog/20110308_OG.pdf#page=1
2. Wait for the total OG to download completely (as indicated on bottom of OG page).
3. At the top/side of the displayed page, click wherever the "binoculars" icon appears.
4. Enter in the "search" box the name of the applicant (for individual: last name, first name) or the serial number in this exact format (with hyphen and comma): 85-003,764, e.g.
5. View the retrieved result(s). If multiple results appear in the "results" box, click directly on each "search term" shown in the box to access all separate appearances in the OG.

*** User:dlee4 ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	8038	N/A	0	0	0:01	*what*[bi,ti]
02	18006	N/A	0	0	0:02	*nut*[bi,ti]
03	18	12	2	2	0:01	1 and 2
04	84	49	5	2	0:01	*whata*[bi,ti]
05	443	N/A	0	0	0:01	"what A"[bi,ti]
06	399	N/A	0	0	0:01	5 not 4
07	171	117	9	6	0:04	6 and "029"[cc]

Session started 7/2/2010 11:40:16 AM
Session finished 7/2/2010 11:42:20 AM
Total search duration 0 minutes 11 seconds
Session duration 2 minutes 4 seconds
Defaut NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 85003764

Exhibit G18

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-03-28 13:29:14 ET

Serial Number: 85030247 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

WHAT A PEACH

(words only): WHAT A PEACH

Standard Character claim: Yes

Current Status: Review prior to publication completed.

Date of Status: 2011-03-02

Filing Date: 2010-05-04

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

The Information will be/was published in the Official Gazette on 2011-04-05

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 103

Attorney Assigned:
HAYES GINA CLARK

Current Location: 650 -Publication And Issue Section

Date In Location: 2011-03-02

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Kahala Franchising, L.L.C.

Address:
Kahala Franchising, L.L.C.
9311 E. Via de Ventura
Scottsdale, AZ 85258
United States
Legal Entity Type: Limited Liability Company
State or Country Where Organized: Arizona

GOODS AND/OR SERVICES

International Class: 030
Class Status: Active
Frozen confections; Ice cream; Ice cream desserts
Basis: 1(b)
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Disclaimer: "PEACH"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2011-03-02 - Law Office Publication Review Completed

2011-03-02 - Assigned To LIE

2011-02-02 - Approved For Pub - Principal Register

2011-02-01 - Teas/Email Correspondence Entered

2011-02-01 - Communication received from applicant

2011-02-01 - TEAS Response to Office Action Received

2010-08-11 - Notification Of Non-Final Action E-Mailed

2010-08-11 - Non-final action e-mailed

2010-08-11 - Non-Final Action Written

2010-08-10 - Assigned To Examiner

2010-05-10 - New Application Office Supplied Data Entered In Tram

2010-05-07 - TEAS Change Of Correspondence Received

2010-05-07 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Renee Mitchell

Correspondent
RENEE MITCHELL
9311 E VIA DE VENTURA
SCOTTSDALE, AZ 85258-3423
Phone Number: 480-362-4800
Fax Number: 480-362-4797

Trademark Snap Shot Publication & Issue Review Stylesheet

(Table presents the data on Publication & Issue Review Complete)

OVERVIEW

SERIAL NUMBER	85030247	FILING DATE	05/04/2010
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	HAYES, GINA CLARK	L.O. ASSIGNED	103

PUB INFORMATION

RUN DATE	03/03/2011
PUB DATE	04/05/2011
STATUS	681-PUBLICATION/ISSUE REVIEW COMPLETE
STATUS DATE	03/02/2011
LITERAL MARK ELEMENT	WHAT A PEACH

DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	NO	1 (a)	NO	1 (a)	NO
1 (b)	YES	1 (b)	YES	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

MARK DATA

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	WHAT A PEACH
MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Kahala Franchising, L.L.C.
ADDRESS	9311 E. Via de Ventura Scottsdale, AZ 85258
ENTITY	16-LTD LIAB CO
CITIZENSHIP	Arizona

GOODS AND SERVICES

INTERNATIONAL CLASS	030
DESCRIPTION TEXT	Frozen confections; Ice cream; Ice cream desserts

GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	030	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE

MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
DISCLAIMER W/PREDETER TXT	'"PEACH"'

PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
03/02/2011	PREV	O	LAW OFFICE PUBLICATION REVIEW COMPLETED	013
03/02/2011	ALIE	A	ASSIGNED TO LIE	012
02/02/2011	CNSA	P	APPROVED FOR PUB - PRINCIPAL REGISTER	011
02/01/2011	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	010
02/01/2011	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	009
02/01/2011	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	008

08/11/2010	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	007
08/11/2010	GNRT	F	NON-FINAL ACTION E-MAILED	006
08/11/2010	CNRT	R	NON-FINAL ACTION WRITTEN	005
08/10/2010	DOCK	D	ASSIGNED TO EXAMINER	004
05/10/2010	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	003
05/07/2010	TCCA	I	TEAS CHANGE OF CORRESPONDENCE RECEIVED	002
05/07/2010	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	Renee Mitchell
CORRESPONDENCE ADDRESS	RENEE MITCHELL 9311 E VIA DE VENTURA SCOTTSDALE, AZ 85258-3423
DOMESTIC REPRESENTATIVE	NONE

*** User:ghayes1 ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	8098	N/A	0	0	0:01	*what*[bi,ti]
02	1113	N/A	0	0	0:01	*peach*[bi,ti]
03	1	N/A	0	0	0:01	1 and 2
04	0	0	0	0	0:01	*what$peach*[bi,ti]
05	3157	N/A	0	0	0:04	1 not dead[ld]
06	383	0	36	23	0:01	2 not dead

Session started 8/11/2010 4:53:58 PM
Session finished 8/11/2010 4:58:47 PM
Total search duration 0 minutes 9 seconds
Session duration 4 minutes 49 seconds
Defaut NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 85030247

*** User:ghayes1 ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	8098	N/A	0	0	0:01	*what*[bi,ti]
02	1113	N/A	0	0	0:01	*peach*[bi,ti]
03	1	N/A	0	0	0:01	1 and 2
04	0	0	0	0	0:01	*what$peach*[bi,ti]
05	3157	N/A	0	0	0:04	1 not dead[ld]
06	383	0	36	23	0:01	2 not dead
07	445	N/A	4	3	0:02	"what a"[bi,ti]

Session started 8/11/2010 4:53:58 PM
Session finished 8/11/2010 5:25:37 PM
Total search duration 0 minutes 11 seconds
Session duration 31 minutes 39 seconds
Defaut NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 85030247

Exhibit G19

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-03-28 13:31:03 ET

Serial Number: 77726903 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

WHATAYA NUTS

(words only): WHATAYA NUTS

Standard Character claim: Yes

Current Status: A second request for extension of time to file a Statement of Use has been granted.

Date of Status: 2010-12-20

Filing Date: 2009-05-01

The Notice of Allowance Date is: 2009-12-01

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 107

Attorney Assigned:
BUTLER MIDGE FAE

Current Location: 700 -Intent To Use Section

Date In Location: 2010-12-16

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Sher, Howard

Address:
Sher, Howard
8235 Forsyth Boulevard, Suite 300
Clayton, MO 63105
United States
Legal Entity Type: Individual
Country of Citizenship: United States

GOODS AND/OR SERVICES

International Class: 029
Class Status: Active
All-natural snack food, namely, flavored nut clusters
Basis: 1(b)
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-12-21 - Notice Of Approval Of Extension Request E-Mailed

2010-12-20 - Extension 2 granted

2010-11-30 - Extension 2 filed

2010-12-16 - Case Assigned To Intent To Use Paralegal

2010-11-30 - TEAS Extension Received

2010-11-30 - TEAS Change Of Correspondence Received

2010-04-20 - Notice Of Approval Of Extension Request E-Mailed

2010-04-16 - Extension 1 granted

2010-04-16 - Extension 1 filed

2010-04-16 - TEAS Extension Received

2009-12-01 - NOA Mailed - SOU Required From Applicant

2009-09-08 - Published for opposition

2009-08-19 - Notice of publication

2009-08-06 - Law Office Publication Review Completed

2009-08-05 - Assigned To LIE

2009-07-28 - Approved For Pub - Principal Register

2009-07-28 - Assigned To Examiner

2009-05-06 - Notice Of Pseudo Mark Mailed

2009-05-05 - New Application Office Supplied Data Entered In Tram

2009-05-05 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Patricia Thompson

Correspondent
Patricia Thompson
Leach Firm, LLC
Suite 202
220 W. Lockwood Avenue
St. Louis MO 63119
Phone Number: 314-266-5744
Fax Number: 314-918-1168

U.S. Patent and Trademark Office (USPTO)

NOTICE OF ALLOWANCE

NOTE: If any data on this notice is incorrect, please fax a request for correction to the Intent to Use Unit at 571-273-9550. Please include the serial number of your application on ALL correspondence with the USPTO.

ISSUE DATE: Dec 1, 2009

PATRICIA THOMPSON
HEITLAND LEACH LLC
220 W LOCKWOOD AVE STE 202
SAINT LOUIS, MO 63119-2353

** IMPORTANT INFORMATION: 6 MONTH DEADLINE **

You filed the trademark application identified below based upon a bona fide intention to use the mark in commerce. You must use the mark in commerce and file a Statement of Use (a.k.a. Allegation of Use) before the USPTO will register the mark. You have six (6) MONTHS from the ISSUE DATE of this Notice of Allowance (NOA) to file either a Statement of Use, or if you are not yet using the mark in commerce, a Request for Extension of Time to File a Statement of Use ("Extension Request"). If you file an extension request, you must continue to file a new request every six months calculated from the issue date of the NOA until the Statement of Use is filed. Applicant may file a total of five (5) extension requests. FAILURE TO FILE A REQUIRED DOCUMENT DURING THE APPROPRIATE TIME PERIOD WILL RESULT IN THE ABANDONMENT OF YOUR APPLICATION. Please note that both the "Statement of Use " and "Extension Request" have many legal requirements including fees. Therefore, we encourage use of the USPTO forms, available online at http://www.uspto.gov/teas/index.html (under "INTENT-TO-USE (ITU) FORMS"), to avoid the possible omission of important information. Please note that the Trademark Electronic Application System (TEAS) provides line-by-line help instructions for completing the Extension Request or Statement of Use forms online. If you do not have access to the Internet, you may call 1-800-786-9199 to request the printed form(s).

**** Registration Subject to Cancellation for Fraudulent Statements ****

Ensure that statements made in filings to the USPTO are accurate, as inaccuracies may result in the cancellation of your trademark registration. The lack of a bona fide intention to use the mark with all goods and/or services included in an application or the lack of use on all goods and/or services for which you claimed use could jeopardize the validity of your registration, possibly resulting in its cancellation.

The following information should be reviewed for accuracy:

SERIAL NUMBER:	77/726903
MARK:	WHATAYA NUTS (STANDARD CHARACTER MARK)

OWNER: Sher, Howard
8235 Forsyth Boulevard, Suite 300
Clayton , MISSOURI 63105

This application has the following bases, but not necessarily for all listed goods/services:

Section 1(a): NO Section 1(b): YES Section 44(e): NO

GOODS/SERVICES BY INTERNATIONAL CLASS

029 - All-natural snack food, namely, flavored nut clusters -- FIRST USE DATE: NONE; -- USE IN COMMERCE DATE: NONE

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED

ADDITIONAL INFORMATION MAY BE PRESENT IN THE USPTO RECORDS

Side - 1

NOTICE OF PUBLICATION UNDER §12(a)

MAILING DATE: Aug 19, 2009
PUBLICATION DATE: Sep 8, 2009

The mark identified below will be published in the Official Gazette on Sep 8, 2009. Any party who believes they will be damaged by registration of the mark may oppose its registration by filing an opposition to registration or a request to extend the time to oppose within thirty (30) days from the publication date on this notice. If no opposition is filed within the time specified by law, the USPTO may issue a Notice of Allowance.To view the Official Gazette online or to order a paper copy, visit the USPTO website at http://www.uspto.gov/web/trademarks/tmog/ any time within the five-week period after the date of publication. You may also order a printed version from the U.S. Government Printing Office (GPO) at http://bookstore.gpo.gov or 202-512-1800. To check the status of your application, go to http://tarr.uspto.gov/.

SERIAL NUMBER: **77726903**
MARK: **WHATAYA NUTS**
OWNER: **Sher, Howard**

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA, VA 22313-1451

FIRST-CLASS
MAIL
U.S POSTAGE
PAID

PATRICIA THOMPSON
HEITLAND LEACH LLC
220 W LOCKWOOD AVE STE 202
SAINT LOUIS, MO 63119-2353

*** User:mbutler2 ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	1	0	1	1	0:01	77726903[SN]
02	8745	N/A	0	0	P/0:02	*WHA*[bi,ti]
03	17001	N/A	0	0	P/0:01	*NUT*[bi,ti]
04	16	10	2	2	P/0:01	2 AND 3
05	29557	N/A	0	0	P/0:02	*YA*[bi,ti]
06	68	38	2	2	P/0:01	3 AND 5

Session started 7/28/2009 12:20:49 PM
Session finished 7/28/2009 12:22:05 PM
Total search duration 0 minutes 8 seconds
Session duration 1 minutes 16 seconds
Defaut NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 77726903

Exhibit G20

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-03-28 13:38:42 ET

Serial Number: 75099722 Assignment Information Trademark Document Retrieval

Registration Number: 2066960

Mark (words only): WHAT A PIZZA!

Standard Character claim: No

Current Status: A cancellation proceeding is pending at the Trademark Trial and Appeal Board. For further information, see TTABVUE on the Trademark Trial and Appeal Board web page.

Date of Status: 2010-08-03

Filing Date: 1996-04-22

Transformed into a National Application: No

Registration Date: 1997-06-03

Register: Principal

Law Office Assigned: LAW OFFICE 101

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2008-02-26

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Bernatello's Pizza, Inc.

Address:
Bernatello's Pizza, Inc.
P.O. Box 729
Maple Lake, MN 55358
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Minnesota

GOODS AND/OR SERVICES

International Class: 030
Class Status: Active
frozen pizza
Basis: 1(a)
First Use Date: 1982-02-22
First Use in Commerce Date: 1982-11-15

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-08-03 - Cancellation Instituted No. 999999

2009-08-14 - Attorney Revoked And/Or Appointed

2009-08-14 - TEAS Revoke/Appoint Attorney Received

2008-02-26 - First renewal 10 year

2008-02-26 - Section 8 (10-year) accepted/ Section 9 granted

2007-11-26 - PAPER RECEIVED

2007-07-18 - Post Registration action mailed Sections 8 & 9

2007-06-14 - Assigned To Paralegal

2007-05-22 - Combined Section 8 (10-year)/Section 9 filed

2007-05-22 - TEAS Section 8 & 9 Received

2006-12-06 - Case File In TICRS

2006-08-01 - Review Of Correspondence Complete

2004-02-06 - PAPER RECEIVED

2003-09-29 - PAPER RECEIVED

2003-10-03 - TEAS Change Of Correspondence Received

2003-09-06 - Section 8 (6-year) accepted & Section 15 acknowledged

2003-06-05 - Section 8 (6-year) and Section 15 Filed

2003-06-05 - Section 8 (6-year) and Section 15 Filed

2003-06-05 - PAPER RECEIVED

1997-06-03 - Registered - Principal Register

1997-03-11 - Published for opposition

1997-02-07 - Notice of publication

1996-10-30 - Approved for Pub - Principal Register (Initial exam)

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Anthony J. Bourget

Correspondent
BRADLEY J WALZ
WINTHROP & WEINSTINE PA
3500 CAPELLA TOWER 225 SOUTH SIXTH STREE
T
MINNEAPOLIS, MN 55402
Phone Number: 715-835-5232
Fax Number: 715-835-9890

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 2,066,960

United States Patent and Trademark Office

Registered June 3, 1997

TRADEMARK
PRINCIPAL REGISTER

WHAT A PIZZA!

BERNATELLO'S PIZZA, INC. (MINNESOTA CORPORATION)
220 CONGRESS
JUDE INDUSTRIAL PARKP.O. BOX 729
MAPLE LAKE, MN 55358

FOR: FROZEN PIZZA, IN CLASS 30 (U.S. CL. 46).

FIRST USE 2-22-1982; IN COMMERCE 11-15-1982.

SER. NO. 75-099,722, FILED 4-22-1996.

MARK T. MULLEN, EXAMINING ATTORNEY

Exhibit G21

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-03-28 13:39:32 ET

Serial Number: 75099453 Assignment Information Trademark Document Retrieval

Registration Number: 2098947

Mark

(words only): WHAT A PIZZA! BERNATELLO'S PIZZA

Standard Character claim: No

Current Status: A cancellation proceeding is pending at the Trademark Trial and Appeal Board. For further information, see TTABVUE on the Trademark Trial and Appeal Board web page.

Date of Status: 2010-08-03

Filing Date: 1996-05-06

Transformed into a National Application: No

Registration Date: 1997-09-23

Register: Principal

Law Office Assigned: LAW OFFICE 101

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: L10 -TMEG Law Office 101

Date In Location: 2010-03-31

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Bernatello's Pizza, Inc.

Address:
Bernatello's Pizza, Inc.
P.O. Box 729
Maple Lake, MN 55358
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Minnesota

GOODS AND/OR SERVICES

International Class: 030
Class Status: Active
frozen pizza
Basis: 1(a)
First Use Date: 1982-02-22
First Use in Commerce Date: 1982-11-15

ADDITIONAL INFORMATION

Disclaimer: "PIZZA"

Design Search Code(s):
02.01.01 - Busts of men facing forward; Heads of men facing forward; Men - heads, portraiture, or busts facing forward; Portraiture of men facing forward
02.01.20 - Bakers (men); Butchers (men); Chefs (men); Men, butchers, chefs, and bakers

Prior Registration Number(s):
1344880

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-08-03 - Cancellation Instituted No. 999999

2010-03-31 - Post Registration action mailed - Section 7

2009-11-09 - TEAS Section 7 Request Received

2009-08-14 - Attorney Revoked And/Or Appointed

2009-08-14 - TEAS Revoke/Appoint Attorney Received

2008-10-09 - Notice Of Design Search Code And Pseudo Mark Mailed

2007-12-12 - First renewal 10 year

2007-12-12 - Section 8 (10-year) accepted/ Section 9 granted

2007-11-26 - Response received to Post Registration action - Sections 8 & 9

2007-11-26 - PAPER RECEIVED

2007-07-18 - Post Registration action mailed Sections 8 & 9

2007-06-14 - Assigned To Paralegal

2007-05-22 - Combined Section 8 (10-year)/Section 9 filed

2007-05-22 - TEAS Section 8 & 9 Received

2007-03-06 - Case File In TICRS

2004-04-20 - Section 8 (6-year) accepted & Section 15 acknowledged

2004-03-10 - Section 8 (6-year) and Section 15 Filed

2004-03-10 - TEAS Section 8 & 15 Received

2004-02-06 - PAPER RECEIVED

1997-09-23 - Registered - Principal Register

1997-07-01 - Published for opposition

1997-05-30 - Notice of publication

1997-04-03 - Approved for Pub - Principal Register (Initial exam)

1997-03-10 - Communication received from applicant

1996-11-06 - Non-final action mailed

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Anthony J. Bourget

Correspondent
BRADLEY J WALZ
WINTHROP & WEINSTINE PA
3500 CAPELLA TOWER 225 SOUTH SIXTH STREE
T
MINNEAPOLIS, MN 55402
Phone Number: 715-835-5232
Fax Number: 715-835-9890

Int. Cl.: 30

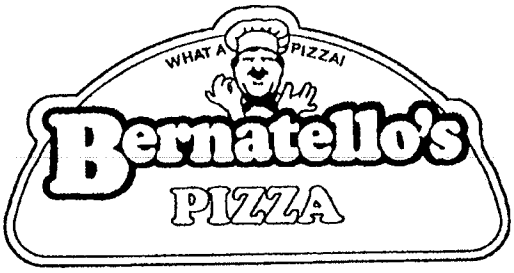
Prior U.S. Cl.: 46

Reg. No. 2,098,947

United States Patent and Trademark Office

Registered Sep. 23, 1997

TRADEMARK
PRINCIPAL REGISTER



BERNATELLO'S PIZZA, INC. (MINNESOTA CORPORATION)
220 CONGRESS
JUDE INDUSTRIAL PARKP.O. BOX 729
MAPLE LAKE, MN 55358

FOR: FROZEN PIZZA, IN CLASS 30 (U.S. CL. 46).

FIRST USE 2-22-1982; IN COMMERCE 11-15-1982.

OWNER OF U.S. REG. NO. 1,344,880.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PIZZA", APART FROM THE MARK AS SHOWN.

SER. NO. 75-099,453, FILED 5-6-1996.

MARK T. MULLEN, EXAMINING ATTORNEY

Exhibit G22

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-03-28 13:40:35 ET

Serial Number: 75093719 Assignment Information Trademark Document Retrieval

Registration Number: 2066885

Mark (words only): WOW! WHAT A PIZZA!

Standard Character claim: No

Current Status: A cancellation proceeding is pending at the Trademark Trial and Appeal Board. For further information, see TTABVUE on the Trademark Trial and Appeal Board web page.

Date of Status: 2010-08-03

Filing Date: 1996-04-22

Transformed into a National Application: No

Registration Date: 1997-06-03

Register: Principal

Law Office Assigned: LAW OFFICE 101

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2007-11-10

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Bernatello's Pizza, Inc.

Address:
Bernatello's Pizza, Inc.
200 Congress Street
Maple Lake, MN 55358
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Minnesota

GOODS AND/OR SERVICES

International Class: 030
Class Status: Active
frozen pizza
Basis: 1(a)
First Use Date: 1982-02-22
First Use in Commerce Date: 1982-11-15

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-08-03 - Cancellation Instituted No. 999999

2009-08-14 - Attorney Revoked And/Or Appointed

2009-08-14 - TEAS Revoke/Appoint Attorney Received

2008-06-11 - Notice Of Suit

2007-11-10 - First renewal 10 year

2007-11-10 - Section 8 (10-year) accepted/ Section 9 granted

2007-11-08 - Assigned To Paralegal

2007-11-06 - TEAS Section 8 & 9 Received

2006-12-11 - Case File In TICRS

2006-08-01 - Review Of Correspondence Complete

2004-02-06 - PAPER RECEIVED

2003-08-14 - Section 8 (6-year) accepted & Section 15 acknowledged

2003-06-05 - Section 8 (6-year) and Section 15 Filed

2003-06-05 - PAPER RECEIVED

1997-06-03 - Registered - Principal Register

1997-03-11 - Published for opposition

1997-02-07 - Notice of publication

1996-10-30 - Approved for Pub - Principal Register (Initial exam)

1996-10-29 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Anthony J. Bourget

Correspondent
BRADLEY J WALZ
WINTHROP & WEINSTINE PA
3500 CAPELLA TOWER 225 SOUTH SIXTH STREE
T
MINNEAPOLIS, MN 55402
Phone Number: 715-835-5232
Fax Number: 715-835-9890

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 2,066,885

United States Patent and Trademark Office

Registered June 3, 1997

TRADEMARK
PRINCIPAL REGISTER

WOW! WHAT A PIZZA!

BERNATELLO'S PIZZA, INC. (MINNESOTA CORPORATION)
220 CONGRESS
JUDE INDUSTRIAL PARKP.O. BOX 729
MAPLE LAKE, MN 55358

FOR: FROZEN PIZZA, IN CLASS 30 (U.S. CL. 46).

FIRST USE 2-22-1982; IN COMMERCE 11-15-1982.

SER. NO. 75-093,719, FILED 4-22-1996.

MARK T. MULLEN, EXAMINING ATTORNEY

Exhibit H1

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-04 10:39:03 ET

Serial Number: 75410219 Assignment Information Trademark Document Retrieval

Registration Number: 2453469

Mark

What-A

(words only): WHAT-A

Standard Character claim: No

Current Status: A Section 8 declaration has been accepted.

Date of Status: 2008-05-15

Filing Date: 1997-12-23

Transformed into a National Application: No

Registration Date: 2001-05-22

Register: Principal

Law Office Assigned: LAW OFFICE 112

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2008-05-15

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. FASANO, DANIEL

Address:
FASANO, DANIEL
2444 INNOVATION WAY
ROCHESTER, NY 14615
United States
Legal Entity Type: Individual
Country of Citizenship: United States

GOODS AND/OR SERVICES

International Class: 008
Class Status: Active
manually operated hand tools, namely, hammers and saws
Basis: 1(a)
First Use Date: 1999-10-00
First Use in Commerce Date: 1999-10-00

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-05-15 - Section 8 (6-year) accepted

2008-02-27 - Assignment Of Ownership Not Updated Automatically

2008-01-10 - Response received to Post Registration action - Sections 8

2008-01-16 - Assignment Of Ownership Not Updated Automatically

2008-01-10 - PAPER RECEIVED

2007-12-04 - Post Registration action mailed - Section 8

2007-11-21 - FAX RECEIVED

2007-11-21 - Automatic Update Of Assignment Of Ownership

2007-07-24 - Post Registration action mailed - Section 8

2007-06-14 - Assigned To Paralegal

2007-05-21 - Section 8 (6-year) filed

2007-05-21 - TEAS Section 8 Received

2006-11-02 - Case File In TICRS

2004-06-03 - TEAS Change Of Correspondence Received

2001-05-22 - Registered - Principal Register

2001-03-06 - Allowed for Registration - Principal Register (SOU accepted)

2000-10-27 - Non-final action mailed

2000-09-08 - Assigned To Examiner

2000-09-08 - Assigned To Examiner

2000-06-07 - Assigned To Examiner

2000-05-28 - Statement Of Use Processing Complete

2000-03-21 - Use Amendment Filed

2000-05-05 - Extension 1 granted

2000-03-11 - Extension 1 filed

1999-09-21 - NOA Mailed - SOU Required From Applicant

1999-06-29 - Published for opposition

1999-06-01 - Notice of publication

1999-02-23 - Approved For Pub - Principal Register

1999-01-25 - Communication received from applicant

1998-09-29 - Non-final action mailed

1998-09-21 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Stephen B. Salai

Correspondent
Stephen B. Salai
Harter Secrest & Emery LLP
1600 Bausch & Lomb Place
Rochester NY 14604
Phone Number: 585-231-1386
Fax Number: 585-232-2152

Exhibit H2

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-04 20:19:14 ET

Serial Number: 78679691 Assignment Information Trademark Document Retrieval

Registration Number: 3369208

Mark

WHATABAG

(words only): WHATABAG

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2008-01-15

Filing Date: 2005-07-27

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

Transformed into a National Application: No

Registration Date: 2008-01-15

Register: Principal

Law Office Assigned: LAW OFFICE 109

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2008-01-15

LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. Com-Pac International, Inc.

Address:
Com-Pac International, Inc.
800 Industrial Park Road
Carbondale, IL 62902
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Illinois

GOODS AND/OR SERVICES

International Class: 016
Class Status: Active
"Plastic bags sold empty at wholesale to commercial entities excluding sales to the retail food service industry"
Basis: 1(a)
First Use Date: 1994-11-17
First Use in Commerce Date: 1994-11-17

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-01-15 - Registered - Principal Register

2007-12-06 - Opposition terminated for Proceeding

2007-12-06 - Opposition dismissed for Proceeding

2007-11-07 - PAPER RECEIVED

2007-02-12 - Opposition instituted for Proceeding

2006-11-08 - Extension Of Time To Oppose Received

2006-10-10 - Published for opposition

2006-09-20 - Notice of publication

2006-08-21 - Law Office Publication Review Completed

2006-08-11 - Assigned To LIE

2006-08-02 - Approved for Pub - Principal Register (Initial exam)

2006-08-02 - Examiner's Amendment Entered

2006-08-02 - EXAMINERS AMENDMENT E-MAILED

2006-08-02 - Examiners Amendment -Written

2006-07-14 - Teas/Email Correspondence Entered

2006-06-16 - Communication received from applicant

2006-06-16 - TEAS Response to Office Action Received

2006-02-17 - Priority Action E-Mailed

2006-02-17 - Priority Action Written

2006-02-15 - Assigned To Examiner

2005-08-02 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Robert S. Beiser

Correspondent
ROBERT S. BEISER
VEDDER PRICE KAUFMAN & KAMMHOLZ
222 N LASALLE ST STE 2600
CHICAGO, IL 60601-1100
Phone Number: 312 609 7848
Fax Number: 312 609 5005

Exhibit H3

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-04 20:19:30 ET

Serial Number: 77843546 Assignment Information Trademark Document Retrieval

Registration Number: 3920767

Mark

WhatABubble

(words only): WHATABUBBLE

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2011-02-15

Filing Date: 2009-10-07

Transformed into a National Application: No

Registration Date: 2011-02-15

Register: Principal

Law Office Assigned: LAW OFFICE 103

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2011-01-08

LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. Extreme Bubbles, Inc.

Address:
Extreme Bubbles, Inc.

111 Marquette Avenue South Suite 2006
Minneapolis, MN 55401
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Minnesota

GOODS AND/OR SERVICES

International Class: 028
Class Status: Active
Bubble solution
Basis: 1(a)
First Use Date: 2010-09-01
First Use in Commerce Date: 2010-09-01

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2011-02-15 - Registered - Principal Register

2011-01-11 - Notice Of Acceptance Of Statement Of Use E-Mailed

2011-01-08 - Law Office Registration Review Completed

2011-01-05 - Allowed for Registration - Principal Register (SOU accepted)

2010-12-16 - Statement Of Use Processing Complete

2010-11-29 - Use Amendment Filed

2010-12-16 - Case Assigned To Intent To Use Paralegal

2010-11-29 - TEAS Statement of Use Received

2010-07-08 - Assigned To Examiner

2010-06-01 - NOA Mailed - SOU Required From Applicant

2010-03-09 - Notice Of Publication E-Mailed

2010-03-09 - Published for opposition

2010-02-01 - Law Office Publication Review Completed

2010-01-30 - Assigned To LIE

2010-01-07 - Approved For Pub - Principal Register

2010-01-07 - Assigned To Examiner

2009-10-15 - New Application Office Supplied Data Entered In Tram

2009-10-10 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Sholly A. Blustin

Correspondent
SHOLLY A. BLUSTIN
BLUSTIN & ASSOCIATES, PLLC
5775 WAYZATA BLVD
STE 700
MINNEAPOLIS, MN 55416-1233
Phone Number: (952) 525-2245
Fax Number: (952) 545-0071

Exhibit H4

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-04 20:19:54 ET

Serial Number: 75381957 Assignment Information Trademark Document Retrieval

Registration Number: 2216239

Mark (words only): WHAT-A-CHAIR

Standard Character claim: No

Current Status: The registration has been renewed.

Date of Status: 2009-01-26

Filing Date: 1997-10-30

Transformed into a National Application: No

Registration Date: 1999-01-05

Register: Principal

Law Office Assigned: LAW OFFICE 104

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2009-01-26

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Coastal Sales Associates, Inc.

DBA/AKA/TA/Formerly: DBA COORDINATED STRATEGIC ALLIANCES
Address:
Coastal Sales Associates, Inc.
62 Leone Ln.
Chester, NY 10918
United States
Legal Entity Type: Corporation
State or Country of Incorporation: New York

GOODS AND/OR SERVICES

International Class: 020

Class Status: Active
CHAIRS
Basis: 1(a)
First Use Date: 1995-05-25
First Use in Commerce Date: 1995-05-25

ADDITIONAL INFORMATION

Prior Registration Number(s):
2151233

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-01-26 - First renewal 10 year

2009-01-26 - Section 8 (10-year) accepted/ Section 9 granted

2009-01-26 - Assigned To Paralegal

2009-01-05 - TEAS Section 8 & 9 Received

2006-05-03 - Section 8 (6-year) accepted & Section 15 acknowledged

2005-01-05 - Section 8 (6-year) and Section 15 Filed

2005-01-05 - Section 8 (6-year) and Section 15 Filed

2005-01-05 - TEAS Section 8 & 15 Received

2005-01-05 - TEAS Change Of Owner Address Received

1999-01-05 - Registered - Principal Register

1998-10-13 - Published for opposition

1998-09-11 - Notice of publication

1998-07-28 - Approved for Pub - Principal Register (Initial exam)

1998-07-22 - Examiner's amendment mailed

1998-07-16 - Assigned To Examiner

1998-07-06 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
ALBERT L SCHMEISER

Correspondent
ALBERT L SCHMEISER
SCHMEISER OLSEN & WATTS
18 E. University Dr., #101
MESA AZ 85201
Phone Number: 480-655-0073
Fax Number: 480-655-9536

Exhibit H5

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-04 20:20:08 ET

Serial Number: 77226000 Assignment Information Trademark Document Retrieval

Registration Number: 3388669

Mark

WHATaGRIP

(words only): WHATAGRIP

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2008-02-26

Filing Date: 2007-07-10

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

Transformed into a National Application: No

Registration Date: 2008-02-26

Register: Principal

Law Office Assigned: LAW OFFICE 115

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2008-02-26

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Unique Sports Products Inc.

Address:
Unique Sports Products Inc.
840 McFarland Parkway
Alpharetta, GA 30004
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Georgia
Phone Number: 770-442-1977
Fax Number: 770-475-2065

GOODS AND/OR SERVICES

International Class: 028
Class Status: Active
Grip tapes for rackets
Basis: 1(a)
First Use Date: 1990-08-15
First Use in Commerce Date: 1990-10-30

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-02-26 - Registered - Principal Register

2007-12-11 - Published for opposition

2007-11-21 - Notice of publication

2007-11-04 - Law Office Publication Review Completed

2007-11-04 - Assigned To LIE

2007-10-12 - Approved for Pub - Principal Register (Initial exam)

2007-10-12 - Assigned To Examiner

2007-07-14 - Notice Of Pseudo Mark Mailed

2007-07-13 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent
GENE NIKSICH
UNIQUE SPORTS PRODUCTS
840 MCFARLAND PKWY
ALPHARETTA, GA 30004-3364
Phone Number: 770-442-1977
Fax Number: 770-475-2065

Domestic Representative
Gene Niksich
Phone Number: 770-442-1977
Fax Number: 770-475-2065

Exhibit H6

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-04 20:20:22 ET

Serial Number: 77442796 Assignment Information Trademark Document Retrieval

Registration Number: 3723155

Mark

What-A-Light!

(words only): WHAT-A-LIGHT!

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2009-12-08

Filing Date: 2008-04-08

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

Transformed into a National Application: No

Registration Date: 2009-12-08

Register: Principal

Law Office Assigned: LAW OFFICE 113

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2009-11-03

LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. Wise, Thomas Francis

Address:
Wise, Thomas Francis
4134 Grandchamp Circle
Palm Harbor, FL 34685
United States
Legal Entity Type: Individual
Country of Citizenship: United States
Phone Number: 727-410-6215

GOODS AND/OR SERVICES

International Class: 011
Class Status: Active
Fluorescent lamps
Basis: 1(a)
First Use Date: 2009-01-01
First Use in Commerce Date: 2009-01-02

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-12-08 - Registered - Principal Register

2009-11-03 - Law Office Registration Review Completed

2009-11-03 - Allowed for Registration - Principal Register (SOU accepted)

2009-10-27 - Statement Of Use Processing Complete

2009-10-26 - Use Amendment Filed

2009-10-26 - TEAS Statement of Use Received

2009-08-25 - Extension 1 granted

2009-05-18 - Extension 1 filed

2009-08-25 - Case Assigned To Intent To Use Paralegal

2009-07-27 - Extension Received With TEAS Petition

2009-07-27 - Petition To Revive-Granted

2009-07-27 - TEAS Petition To Revive Received

2009-06-22 - Abandonment Notice Mailed - No Use Statement Filed

2009-06-22 - Abandonment - No use statement filed

2008-11-18 - NOA Mailed - SOU Required From Applicant

2008-08-26 - Published for opposition

2008-08-06 - Notice of publication

2008-07-23 - Law Office Publication Review Completed

2008-07-23 - Assigned To LIE

2008-07-23 - Approved For Pub - Principal Register

2008-07-21 - Assigned To Examiner

2008-04-11 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent
WISE, THOMAS FRANCIS
4134 GRANDCHAMP CIR
PALM HARBOR, FL 34685-1095
Phone Number: 727-773-0004

Exhibit H7

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-04 20:20:36 ET

Serial Number: 78271504 Assignment Information Trademark Document Retrieval

Registration Number: 3223746

Mark (words only): WHAT-A-MELON

Standard Character claim: No

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2007-04-03

Filing Date: 2003-07-08

Transformed into a National Application: No

Registration Date: 2007-04-03

Register: Principal

Law Office Assigned: LAW OFFICE 116

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2007-04-03

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Snapple Beverage Corp.

Address:
Snapple Beverage Corp.
900 King Street
Rye Brook, NY 10573
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware
Phone Number: 203-968-7736
Fax Number: 203-968-5654

GOODS AND/OR SERVICES

International Class: 032
Class Status: Active
Fruit juice and non-carbonated fruit flavored beverage
Basis: 1(a)
First Use Date: 2003-11-10
First Use in Commerce Date: 2003-11-10

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2007-04-03 - Registered - Principal Register

2007-02-23 - Opposition terminated for Proceeding

2007-02-23 - Opposition dismissed for Proceeding

2005-08-02 - TEAS Change Of Owner Address Received

2005-05-04 - Attorney Revoked And/Or Appointed

2005-05-04 - TEAS Revoke/Appoint Attorney Received

2004-10-06 - Opposition instituted for Proceeding

2004-06-25 - TEAS Change Of Correspondence Received

2004-04-22 - Extension Of Time To Oppose Received

2004-03-23 - Published for opposition

2004-03-03 - Notice of publication

2004-01-16 - Approved for Pub - Principal Register (Initial exam)

2004-01-16 - Amendment to Use approved

2004-01-16 - Assigned To Examiner

2004-01-15 - Amendment To Use Processing Complete

2004-01-13 - Use Amendment Filed

2004-01-08 - TEAS Amendment of Use Received

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Daniel Chung, Esq.

Correspondent
Barbara A. Solomon
Fross Zelnick Lehrman & Zissu, P.C.
866 Untied Nations Plaza
New York, NY 10017
Phone Number: 914-612-4701
Fax Number: 914-612-6325

Exhibit H8

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-04 20:20:53 ET

Serial Number: 77194719 Assignment Information Trademark Document Retrieval

Registration Number: 3559579

Mark

WHAT-A-MELON

(words only): WHAT-A-MELON

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2009-01-13

Filing Date: 2007-05-31

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

Transformed into a National Application: No

Registration Date: 2009-01-13

Register: Principal

Law Office Assigned: LAW OFFICE 104

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2009-01-13

LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. ANDERSON, TONY WAYNE

Address:
ANDERSON, TONY WAYNE
P.O. BOX 5369
McALLEN, TX 78502
United States
Legal Entity Type: Individual
Country of Citizenship: United States

GOODS AND/OR SERVICES

International Class: 031
Class Status: Active
Fresh fruits; Fruits, namely, watermelons which are fresh, raw and/or unprocessed; Raw fruits; Unprocessed fruits
Basis: 1(a)
First Use Date: 1977-06-05
First Use in Commerce Date: 1977-06-05

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-01-13 - Registered - Principal Register

2008-10-28 - Published for opposition

2008-10-08 - Notice of publication

2008-09-23 - Law Office Publication Review Completed

2008-09-18 - Assigned To LIE

2008-09-11 - Approved for Pub - Principal Register (Initial exam)

2008-09-09 - Teas/Email Correspondence Entered

2008-09-09 - Communication received from applicant

2008-09-09 - TEAS Request For Reconsideration Received

2008-03-17 - Notification Of Final Refusal Emailed

2008-03-17 - Final refusal e-mailed

2008-03-17 - Final Refusal Written

2008-03-12 - Teas/Email Correspondence Entered

2008-03-12 - Communication received from applicant

2008-03-12 - TEAS Response to Office Action Received

2007-09-12 - Notification Of Non-Final Action E-Mailed

2007-09-12 - Non-final action e-mailed

2007-09-12 - Non-Final Action Written

2007-09-10 - Assigned To Examiner

2007-06-06 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
RICHARD C. LITMAN

Correspondent
RICHARD C. LITMAN
LITMAN LAW OFFICES, LTD.
P.O. BOX 15035
CRYSTAL CITY STATION
ARLINGTON, VA 22215
Phone Number: 703-486-1000
Fax Number: 703-486-7000

Exhibit H9

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-04 20:21:08 ET

Serial Number: 77674722 Assignment Information Trademark Document Retrieval

Registration Number: 3815322

Mark

WHAT-A-MELON

(words only): WHAT-A-MELON

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2010-07-06

Filing Date: 2009-02-20

Transformed into a National Application: No

Registration Date: 2010-07-06

Register: Principal

Law Office Assigned: LAW OFFICE 112

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2010-06-03

LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. AUSTRALIAN GOLD, LLC

Address:
AUSTRALIAN GOLD, LLC
6270 CORPORATE DRIVE
INDIANAPOLIS, IN 46278
United States
Legal Entity Type: Limited Liability Company

State or Country Where Organized: Indiana

GOODS AND/OR SERVICES

International Class: 003
Class Status: Active
Non-medicated indoor and outdoor sun tanning preparations
Basis: 1(a)
First Use Date: 2009-11-01
First Use in Commerce Date: 2009-11-01

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-10-20 - Automatic Update Of Assignment Of Ownership

2010-07-06 - Registered - Principal Register

2010-06-04 - Notice Of Acceptance Of Statement Of Use E-Mailed

2010-06-03 - Law Office Registration Review Completed

2010-06-02 - Assigned To LIE

2010-03-31 - Allowed for Registration - Principal Register (SOU accepted)

2010-03-30 - Statement Of Use Processing Complete

2010-03-04 - Use Amendment Filed

2010-03-30 - Case Assigned To Intent To Use Paralegal

2010-03-04 - TEAS Statement of Use Received

2009-10-06 - NOA Mailed - SOU Required From Applicant

2009-07-14 - Published for opposition

2009-06-24 - Notice of publication

2009-06-05 - Law Office Publication Review Completed

2009-05-28 - Approved For Pub - Principal Register

2009-05-13 - Data Modification Completed

2009-05-13 - Assigned To LIE

2009-05-13 - Notification Of Examiner's Amendment/Priority Action E-Mailed

2009-05-13 - Examiner's Amendment/Priority Action E-Mailed

2009-05-13 - Examiners Amendment And/Or Priority Action - Completed

2009-05-12 - Assigned To Examiner

2009-02-24 - New Application Office Supplied Data Entered In Tram

2009-02-24 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Scott D. Matthews

Correspondent
SCOTT D. MATTHEWS
WOODARD EMHARDT MORIARTY MCNETT & HENRY
111 MONUMENT CIR
STE 3700
INDIANAPOLIS, IN 46204-5107
Phone Number: 317-554-3685

Exhibit H10

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-04 20:21:23 ET

Serial Number: 78531105 Assignment Information Trademark Document Retrieval

Registration Number: 3163766

Mark

WHATAP

(words only): WHATAP

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2006-10-24

Filing Date: 2004-12-12

Transformed into a National Application: No

Registration Date: 2006-10-24

Register: Principal

Law Office Assigned: LAW OFFICE 101

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2006-09-18

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Newton, Bob

Address:
Newton, Bob

5164 Autumnwood Drive
Cincinnati, OH 45242
United States
Legal Entity Type: Individual
Country of Citizenship: United States

GOODS AND/OR SERVICES

International Class: 014
Class Status: Active
Jewelry
Basis: 1(a)
First Use Date: 2004-09-00
First Use in Commerce Date: 2006-04-00

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2007-08-07 - TEAS Change Of Correspondence Received

2006-10-24 - Registered - Principal Register

2006-09-14 - Law Office Registration Review Completed

2006-09-08 - Assigned To LIE

2006-08-31 - Allowed for Registration - Principal Register (SOU accepted)

2006-08-30 - Statement Of Use Processing Complete

2006-07-26 - Use Amendment Filed

2006-07-26 - TEAS Statement of Use Received

2006-03-21 - NOA Mailed - SOU Required From Applicant

2005-12-27 - Published for opposition

2005-12-07 - Notice of publication

2005-11-02 - Law Office Publication Review Completed

2005-10-28 - Assigned To LIE

2005-10-24 - Approved For Pub - Principal Register

2005-10-24 - Teas/Email Correspondence Entered

2005-10-10 - Communication received from applicant

2005-10-10 - TEAS Response to Office Action Received

2005-07-20 - Non-final action e-mailed

2005-07-20 - Non-Final Action Written

2005-07-18 - Assigned To Examiner

2004-12-22 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
David M. Lafkas

Correspondent
David M. Lafkas
LAFKAS PATENT LLC
PO Box 43289
Cincinnati OH 45243-0289
Phone Number: 513-271-8255
Fax Number: 866-557-3411

Exhibit H11

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-04 20:21:37 ET

Serial Number: 78561704 Assignment Information Trademark Document Retrieval

Registration Number: 3262318

Mark

WHATAP

(words only): WHATAP

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2007-07-10

Filing Date: 2005-02-07

Transformed into a National Application: No

Registration Date: 2007-07-10

Register: Principal

Law Office Assigned: LAW OFFICE 114

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2007-06-01

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Newton, Bob

Address:
Newton, Bob

5164 Autumnwood Drive
Cincinnati, OH 45242
United States
Legal Entity Type: Individual
Country of Citizenship: United States

GOODS AND/OR SERVICES

International Class: 025
Class Status: Active
Clothing, namely, shirts, shorts, hats, caps and headwear
Basis: 1(a)
First Use Date: 2004-09-00
First Use in Commerce Date: 2006-11-00

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2007-08-07 - TEAS Change Of Correspondence Received

2007-07-10 - Registered - Principal Register

2007-04-28 - Law Office Registration Review Completed

2007-04-28 - Assigned To LIE

2007-04-09 - Allowed for Registration - Principal Register (SOU accepted)

2007-04-05 - Statement Of Use Processing Complete

2007-01-17 - Use Amendment Filed

2007-01-17 - TEAS Statement of Use Received

2006-07-17 - Extension 1 granted

2006-07-17 - Extension 1 filed

2006-07-17 - TEAS Extension Received

2006-06-05 - Assigned To Examiner

2006-03-23 - Assigned To Examiner

2006-01-17 - NOA Mailed - SOU Required From Applicant

2005-10-25 - Published for opposition

2005-10-05 - Notice of publication

2005-09-12 - Law Office Publication Review Completed

2005-09-09 - Assigned To LIE

2005-09-06 - Approved For Pub - Principal Register

2005-09-05 - Assigned To Examiner

2005-02-15 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
David M. Lafkas

Correspondent
David M. Lafkas
LAFKAS PATENT LLC
PO Box 43289
Cincinnati OH 45243-0289
Phone Number: 513-271-8255
Fax Number: 866-557-3411

Exhibit H12

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-04 20:21:51 ET

Serial Number: 77572803 Assignment Information Trademark Document Retrieval

Registration Number: 3801662

Mark

WhataQueen

(words only): WHATAQUEEN

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2010-06-15

Filing Date: 2008-09-18

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: No

Transformed into a National Application: No

Registration Date: 2010-06-15

Register: Principal

Law Office Assigned: LAW OFFICE 115

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2010-06-15

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Hibbs, Brandon

Address:
Hibbs, Brandon
301 Wordsworth Ct
Roseville, CA 95747
United States
Legal Entity Type: Individual
Country of Citizenship: United States

GOODS AND/OR SERVICES

International Class: 041
Class Status: Active
Entertainment services, namely, providing a website featuring gossip, fashion, pictures, videos, on line journals, namely, blogs, news, and entertainment information, all in the field of entertainment and/or for entertainment purposes
Basis: 1(a)
First Use Date: 2008-08-00
First Use in Commerce Date: 2008-08-00

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-06-15 - Registered - Principal Register

2010-03-30 - Notice Of Publication E-Mailed

2010-03-30 - Published for opposition

2010-02-19 - Law Office Publication Review Completed

2010-01-29 - Approved for Pub - Principal Register (Initial exam)

2010-01-23 - Teas/Email Correspondence Entered

2010-01-23 - Communication received from applicant

2010-01-23 - TEAS Request For Reconsideration Received

2009-07-24 - Notification Of Final Refusal Emailed

2009-07-24 - Final refusal e-mailed

2009-07-24 - Final Refusal Written

2009-07-02 - Teas/Email Correspondence Entered

2009-07-02 - Communication received from applicant

2009-06-17 - Assigned To LIE

2009-06-16 - TEAS Response to Office Action Received

2008-12-18 - Notification Of Non-Final Action E-Mailed

2008-12-18 - Non-final action e-mailed

2008-12-18 - Non-Final Action Written

2008-12-18 - Removed From TEAS Plus

2008-12-18 - Assigned To Examiner

2008-09-23 - Notice Of Pseudo Mark Mailed

2008-09-22 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
XAVIER MORALES

Correspondent
XAVIER MORALES
LAW OFFICE OF XAVIER MORALES
PO BOX 2987
NEW YORK, NY 10008-2987
Phone Number: 866-618-2517
Fax Number: 866-639-4889

Exhibit H13

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-04 20:22:04 ET

Serial Number: 77510381 Assignment Information Trademark Document Retrieval

Registration Number: 3572174

Mark

(words only): WHATAQUOTE

Standard Character claim: No

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2009-02-10

Filing Date: 2008-06-27

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

Transformed into a National Application: No

Registration Date: 2009-02-10

Register: Principal

Law Office Assigned: LAW OFFICE 101

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2009-02-10

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Future Business Trust

Composed Of:
Anita Womack Beaty, a U.S. citizen
Address:
Future Business Trust
5000 Quorum Drive, #300
Dallas, TX 75254
United States
Legal Entity Type: Trust
State or Country Where Organized: Texas
Phone Number: 972-991-2313

GOODS AND/OR SERVICES

International Class: 036
Class Status: Active
Insurance premium rate computing
Basis: 1(a)
First Use Date: 2008-05-01
First Use in Commerce Date: 2008-05-01

ADDITIONAL INFORMATION

Color(s) Claimed: The color(s) green, light blue and black is/are claimed as a feature of the mark.

Description of Mark: The mark consists of the word "What" in green next to the word "Quote" in light blue. There is a lowercase "a" in black that is located inside the letter "Q" in "Quote".

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-02-10 - Registered - Principal Register

2008-11-25 - Published for opposition

2008-11-05 - Notice of publication

2008-10-20 - Law Office Publication Review Completed

2008-10-20 - Assigned To LIE

2008-10-06 - Approved for Pub - Principal Register (Initial exam)

2008-10-06 - Examiner's Amendment Entered

2008-10-06 - Notification Of Examiners Amendment E-Mailed

2008-10-06 - Examiners amendment e-mailed

2008-10-06 - Examiners Amendment -Written

2008-09-30 - Assigned To Examiner

2008-07-02 - Notice Of Pseudo Mark Mailed

2008-07-01 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
James "J.R." Potts, Jr.

Correspondent
JAMES "J.R." POTTS, JR.
THE NEAL LAW FIRM, P.C.
300 HARWOOD RD
BEDFORD, TX 76021-4148
Phone Number: 817-545-6100, ext. 201
Fax Number: 817-589-2530

Exhibit H14

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-04 20:22:20 ET

Serial Number: 76686568 Assignment Information Trademark Document Retrieval

Registration Number: 3781450

Mark

WHATTA YA THINK?!

(words only): WHATTA YA THINK?!

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2010-04-27

Filing Date: 2008-02-06

Transformed into a National Application: No

Registration Date: 2010-04-27

Register: Principal

Law Office Assigned: LAW OFFICE 117

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2010-03-19

LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. NATURAL WELLNESS CORPORATION LTD

Address:
NATURAL WELLNESS CORPORATION LTD

22 VICTORIA ST. CANON'S COURT
HAMILTON HM 12
Bermuda
Legal Entity Type: Corporation
State or Country of Incorporation: Bermuda

GOODS AND/OR SERVICES

International Class: 041
Class Status: Active
Entertainment in the nature of a television game show series that challenges contestants and viewers to various mental puzzles and problem solving reason, logic and mental acuity puzzles
Basis: 1(a)
First Use Date: 2010-01-04
First Use in Commerce Date: 2010-01-04

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-06-02 - Automatic Update Of Assignment Of Ownership

2010-04-27 - Registered - Principal Register

2010-03-20 - Notice Of Acceptance Of Statement Of Use Mailed

2010-03-19 - Law Office Registration Review Completed

2010-03-19 - Allowed for Registration - Principal Register (SOU accepted)

2010-03-17 - Statement Of Use Processing Complete

2010-03-15 - Use Amendment Filed

2010-03-15 - PAPER RECEIVED

2009-09-09 - Extension 2 granted

2009-09-04 - Extension 2 filed

2009-09-04 - PAPER RECEIVED

2009-04-09 - Extension 1 granted

2009-03-16 - Extension 1 filed

2009-04-09 - Case Assigned To Intent To Use Paralegal

2009-03-20 - PAPER RECEIVED

2008-09-16 - NOA Mailed - SOU Required From Applicant

2008-06-24 - Published for opposition

2008-06-04 - Notice of publication

2008-05-19 - Examiner's amendment mailed

2008-05-19 - Law Office Publication Review Completed

2008-05-19 - Assigned To LIE

2008-05-19 - Approved For Pub - Principal Register

2008-05-19 - Examiner's Amendment Entered

2008-05-19 - Examiners Amendment -Written

2008-05-17 - Assigned To Examiner

2008-02-16 - Application Filing Receipt Mailed

2008-02-12 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Kay Lyn Schwartz

Correspondent
KAY LYN SCHWARTZ
GARDERE WYNNE SEWELL LLP
1601 ELM STREET, SUITE 3000
IP SECTION
DALLAS, TX 75201-4761
Phone Number: (214) 999-4702
Fax Number: 214- 999-3623

Exhibit H15

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-04 20:22:33 ET

Serial Number: 78318637 Assignment Information Trademark Document Retrieval

Registration Number: 2958559

Mark (words only): WHATTACROCK, INC. RICHLY SCENTED CUSTOM-MADE STONEWARE CROCK CANDLES

Standard Character claim: No

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2005-05-31

Filing Date: 2003-10-25

Transformed into a National Application: No

Registration Date: 2005-05-31

Register: Principal

Law Office Assigned: LAW OFFICE 108

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2005-04-20

LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. WhattaCrock, Inc.

Address:
WhattaCrock, Inc.
140 N. Main
El Dorado, KS 67042
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Kansas
Phone Number: 316-322-5229
Fax Number: 316-321-3599

GOODS AND/OR SERVICES

International Class: 004
Class Status: Active
Candles
Basis: 1(a)
First Use Date: 2004-07-14
First Use in Commerce Date: 2004-07-15

ADDITIONAL INFORMATION

Disclaimer: "Inc." and "Richly Scented Custom-Made Stoneware Crock Candles"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2005-05-31 - Registered - Principal Register

2005-02-19 - Law Office Registration Review Completed

2005-02-19 - Assigned To LIE

2005-01-28 - Allowed for Registration - Principal Register (SOU accepted)

2005-01-27 - Amendment From Applicant Entered

2005-01-03 - Communication received from applicant

2005-01-03 - PAPER RECEIVED

2004-12-21 - NON-FINAL ACTION E-MAILED

2004-12-21 - SU - Non-Final Action - Written

2004-11-16 - Statement Of Use Processing Complete

2004-11-16 - Use Amendment Filed

2004-11-16 - TEAS Statement of Use Received

2004-10-26 - NOA Mailed - SOU Required From Applicant

2004-08-03 - Published for opposition

2004-07-14 - Notice of publication

2004-07-06 - Email Received

2004-04-30 - Approved For Pub - Principal Register

2004-04-20 - EXAMINERS AMENDMENT E-MAILED

2004-04-20 - Non-final action e-mailed

2004-04-19 - Assigned To Examiner

2003-11-20 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent
WHATTACROCK, INC.
140 N. MAIN
EL DORADO, KS 67042
Phone Number: 316-322-5229
Fax Number: 316-321-3599

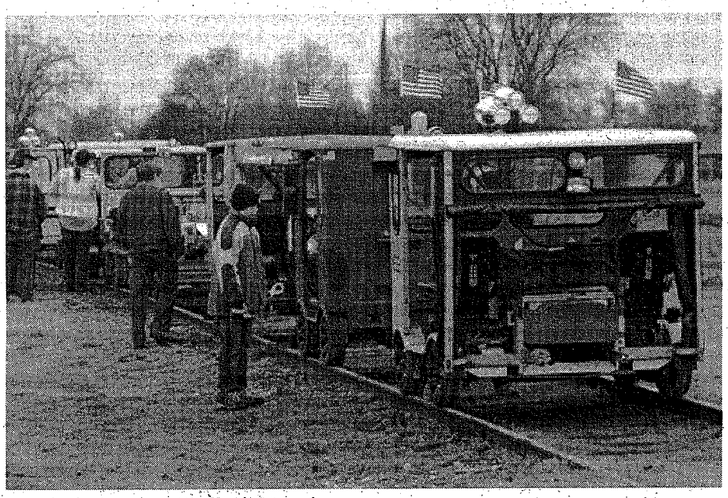
RRC, ACHS demonstrate safety on the rails

By GWEN BOHDAN
LEDGER DISPATCH CONTRIBUTOR

It was a workday, not a playday, Larry Bowler kept reminding people.

Bowler, president of the Recreational Railroad Coalition, led a group of 15 railroad enthusiasts in their small railway motor cars known as "speeders" on a tour of the 10-mile Amador Central Railroad between Ione and Martell Jan. 29. Although the event was fun for the dozens of guests who got to ride along, the purpose of the outing was to investigate a complaint filed against the RRC and the Amador County Historical Society, who jointly own the ACR.

Last October, then-ACR owners Sierra Pacific Industries sold the property to the two nonprofit groups. Since that time, the ACHS and RRC formed the Amador Central Railroad Management Committee to manage the railroad. One of the committee's first missions was to investigate a complaint filed with the Public Utilities Commission by the Amador County Historical Railroad Foundation, claiming the crossings were unsafe. The Jan. 29 tour hosted several members of the ACHS and RRC, as well as two inspectors from the PUC and nine reporters from local media outlets.



Small railway motor cars line up in Ione as the Recreational Railroad Coalition gears for a 10-mile tour. LEDGER DISPATCH PHOTO BY BILL LAVALLIE

The ACR crosses three state highways — once each on highways 124 and 104, and twice on Highway 88. Although the crossing signal was out of order on the Highway 124 stop due to a recent theft for its scrap metal, safety-vest-clad volunteers following the tour in vehicles stopped highway traffic at each crossing by waving red flags. The speeders did not traverse any of the highways until the paths were clear.

Before the tour started, Bowler announced that, while the cars can reach speeds of 40 to 50 mph, the speeders were not to exceed 20 mph along this route. He also advised everyone that the tour led through several ranch properties, therefore giving cattle the right of way at all times.

One of the speeders was Cortland resident Jim Culbertson, who drove an A6 Gang Car, the largest speeder on the tracks during the event.

"I call this the Vista Dome," he said. "It's high enough to see over the other speeders."

The entire cab of the A6 rides on springs, giving the car a smooth ride. Other models riding that day included the MT19, which also has spring suspension, and the smaller, rougher MT14.

The tour gave riders views of the pastoral Amador countryside that cannot be seen from any other vantage point. One stretch had a 3.8 percent grade — which Culbertson claimed was rather steep for a railroad line — and some sharp turns around the hills of Ione. The tour also paralleled old State Highway 88 along part of the route, and offered a distant view of Lake Camanche.

Culbertson's car hosted four reporters and two guests. One of the guests was ACHS member and Pioneer resident Rebecca Brown. This was the third time Brown had ridden on the ACR.

"It's a peaceful kind of experience," she said. "I like talking to the drivers, listening to the sound of the train and feeling the rhythm. It's an opportunity to look at the beauty that's along the road."

After the tour, Daren Gilbert, Supervisor for the Rail Crossings Engineering Section of the Public Utilities Commission, said the next step for his office would be to conduct an assessment of their experience, and then write a letter to the ACR management committee, outlining what he expects to see in the crossings. He anticipates completion of his assessment within the next 30 to 60 days.

The next public tour of the ACR will be during the Ione Rail Fair May 28 and 29.

Bill McKenna
Your Singing Realtor

Village Real Estate
52 Main Street, Sutter Creek
209.267.5280
Web: mckennasgold.com
E-mail: bill@mckennasgold.com
Looking for answers to your Real Estate needs?
CALL ME!
We could make beautiful Real Estate together.

Valentine Special

25% off lotions
when you purchase a monthly tanning membership
New 2011 lotions have arrived!
Supre • Designer Skin • Playboy • Hemps
Special skin care gift bags
Gift certificates available
Student/Military/Senior discounts
12070 Industry Blvd. #25 Martell
Amador Ridge Shopping Center
257-1090
Spring/Summer Hours
M-F 8am to 10pm ~ Sat. 9am to 9pm
WHAT'A BEACH INC.
Martell, CA

Valentine's Day
is just around the corner!

Let Perfect Scents help you make it memorable!
Perfect Scents, for all your last minute floral and gift needs it just makes scents!

Amador Plaza (next to Blockbuster)
11984 Hwy 88 Ste. 2066 - Jackson
Monday - Saturday 9am to 6pm
Perfect Scents Inc.
223-1145

Exhibit A1

TTAB

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

WHATABURGER PARTNERSHIP	)	
	)	
Opposer,	)	
	)	Opposition No.: _____
v.	)	
	)	
AGROAMERICA CORPORATION	)	
	)	
Applicant.	)	

NOTICE OF OPPOSITION

Whataburger Partnership, a general partnership organized under the laws of Texas, with offices located at One Whataburger Way, Corpus Christi, Texas 78411, hereby opposes registration of application Ser. No. 77/057,347 – WATTAFRUIT & Design ("WATTAFRUIT") for "fresh fruits; fresh vegetables," in International Class 31, filed December 5, 2006, by Agroamerica Corporation ("Applicant"), and published for purposes of opposition in the Official Gazette dated May 15, 2007. Whataburger Partnership will be damaged should the opposed application mature to registration. Whataburger Partnership puts forth the following grounds for opposition:

1. Whataburger Partnership, successor in interest to WhataPartnership, L.P., is the owner of all right, title and interest in and to the trademarks and service marks pleaded in this Notice of Opposition and licenses said marks for use in connection with the WHATABURGER restaurant system (Whataburger Partnership and its licensees are collectively referred to as "Opposer").

2. Opposer operates over 500 restaurants under the WHATABURGER name in the United States and Mexico.

[redacted]

09-17-2007

U.S. Patent & TMOfc/TM Mail Rcpt Dt. #34

3. Opposer, through its predecessors in interest, adopted and commenced use of the WHATABUGER name as a service mark for restaurants services in 1950 and has used the name continuously and without interruption to the present day.

4. Opposer uses the WHATABURGER name not only to identify its restaurant services, but also as a trademark to identify food products sold at its restaurants and elsewhere.

5. Opposer has developed a family of WHATA marks to identify its food products, and collateral products and services, such as printed materials, clothing and stadium services.

6. Based on Opposer's extensive, exclusive and continuous use of its WHATABURGER and WHATA marks in connection with restaurant services, food products and collateral goods, the name WHATABURGER and Opposer's other WHATA marks have come to be recognized among the consuming public as designators of origin with respect to said services and products.

7. Opposer is the owner of all right, title and interest in and to the following federal service mark and trademark registrations, which presently are valid and subsisting in law. Opposer will submit current status and title copies of its pleaded registrations at the appropriate time in this proceeding. Photocopies are attached hereto as Exhibit A.

(a) Registration No. 652,137 – **WHATABURGER** for "hamburger sandwich," registered on the Principal Register September 24, 1957.

(b) Registration No. 891,082 – **WHATABURGER** for "restaurant services and drive in restaurant services," registered on the Principal Register May 12, 1970.

(c) Registration No. 1,011,927 – **WHATABURGER** for "hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches" and "restaurant and drive-in restaurant services," registered on the Principal Register on May 27, 1975.

(d) Registration No. 1,011,928 – **WHATABURGER & W Design** for "hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake

beverages, and frankfurter sandwiches" and "restaurant and drive-in restaurant services," registered on the Principal Register on May 27, 1975.

(e) Registration No. 1,014,196 – **WHATABURGER JR.** for "prepared hamburger sandwich for consumption on or off premises," registered on the Principal Register on June 24, 1975.

(f) Registration No. 1,116,918 – **WHATAMEAL** for "prepared meal consisting of a hamburger sandwich, french fries and a beverage for consumption on or off the premises," registered on the Principal Register April 24, 1979.

(g) Registration No. 1,206,344 – **WHATACATCH** for "breaded fish fillets suitable for fish sandwiches" and "prepared fish sandwich for consumption on or off the premises," registered on the Principal Register August 24, 1982.

(h) Registration No. 2,150,703 – **WHATASIZE IT!** for "restaurant services featuring a prepared meal containing french fries and a soft drink for consumption on or off the premises," registered on the Principal Register April 14, 1998.

(i) Registration No. 2,160,285 – **WHATACHICK'N** for "chicken sandwich," registered on the Principal Register May 26, 1998.

(j) Registration No. 2,335,590 – **WHATABURGER** for "restaurant services," registered on the Principal Register March 28, 2000.

(k) Registration No. 2,372,372 – **WHATAKIDS** for "clothing for children, namely, shirts, polo shirts, t-shirts, dresses, overalls, onesies, baseball caps and hats," registered on the Principal Register August 1, 2000.

(l) Registration No. 2,418,380 – **WHATAGUY** for "restaurant services," registered on the Principal Register January 2, 2000.

(m) Registration No. 2,432,191 – **WHATAKIDS** for "restaurant services," registered on the Principal Register February 27, 2001.

(n) Registration No. 2,519,854 – **WHATACOMIX** for "comic books and children's activity books," registered on the Principal Register December 18, 2001.

(o) Registration No. 2,534,527 – **WHATAPLACE! WHATATASTE!** for "restaurant services," registered on the Principal Register January 29, 2002.

(p) Registration No. 2,757,109 – **WHATABURGER** for "charitable fundraising services," registered on the Principal Register August 26, 2003.

(q) Registration No. 2,846,139 – **WHATABLENDERS** for "milk shake drinks, bases for milk shake drinks and candy flavored toppings," registered on the Principal Register May 25, 2004.

(r) Registration No. 3,185,230 – **WHATASIZE** for "restaurant services featuring a prepared meal containing french fries and a soft drink for consumption on or off the premises," registered on the Principal Register December 19, 2006.

(s) Registration No. 3,188,132 – **WHATABURGER FIELD** for "providing stadium facilities for sporting events, exhibitions, conventions, community festival events and concerts," registered on the Principal Register December 19, 2006.

(t) Registration No. 3,188,136 – **WHATABURGER FIELD & Design** for "providing stadium facilities for sporting events, exhibitions, conventions, community festival events and concerts," registered on the Principal Register December 19, 2006.

8. Opposer's Reg. Nos. 652,137; 891,082: 1,011,927; 1,011,928; 1,014,196; 1,116,918; 1,206,344; 2,150,703; 2,160,285 and 2,335,590 are incontestable as to the products and services listed therein and are conclusive evidence of the validity of the registered marks, Opposer's ownership thereof, and of Opposer's exclusive right to use the marks in commerce on or in connection with the products and services identified in the registrations.

9. By reason of Opposer's extensive, exclusive and continuous use of its WHATABURGER and WHATA marks, Opposer has become known and recognized as the owner of the aforesaid marks.

10. The constructive and actual dates of first use of Opposer's WHATABURGER and WHATA marks precede the filing date of the opposed application.

11. On information and belief, Applicant intends to adopt and commence use of the designation WATTAFRUIT in connection with food products consisting of fresh fruits and fresh vegetables.

12. The food products identified in the opposed application are closely related to the products and services offered by Opposer under its WHATABURGER and WHATA marks.

The products in the opposed application is not restricted as to types of customers and channels of trade.

13. The designation WATTAFRUIT so resembles Opposer's WHATABURGER and WHATA marks in terms of appearance, sound, connotation and commercial impression as to be likely, when applied to Applicant's food products, to cause confusion and mistake and to deceive.

14. The designation WATTAFRUIT is confusingly similar to Opposer's WHATABURGER and WHATA marks so that registration of the designation would be inconsistent with and damaging to Opposer's exclusive and prior rights in its registered marks in connection with the products and services with which they are used.

15. Any defect, objection or fault found with any food product sold under the designation WATTAFRUIT would injure the valuable reputation and goodwill Opposer has established for products and services sold under its WHATABURGER and WHATA marks.

16. Opposer will be damaged by registration of Applicant's proposed designation.

WHEREFORE, Opposer prays that its opposition be sustained and that the opposed mark be denied registration.

Opposer hereby authorizes the filing fee of THREE HUNDRED DOLLARS ($300.00) and any additional charges necessary to institute this proceeding in two classes to be debited from the deposit account of Wiley Rein, Account No. 501129.

This opposition is being filed by the undersigned attorneys at law, duly authorized to represent Opposer in this proceeding, pursuant to Trademark Rule 2.101(b).

Respectfully submitted,

WHATABURGER PARTNERSHIP

By: _____

J. Timothy Hobbs
Christopher Kelly
Jennifer Elgin
Wiley Rein LLP
1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000

Attorneys for Whataburger Partnership

Dated: September 12, 2007
12707949.1

CERTIFICATE OF MAILING

I hereby certify that the Notice of Opposition is being deposited with the United States Postal Service on this 12th day of September, 2007, to the following:

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Betty Davis

EXHIBIT A

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 652,137

Registered Sep. 24, 1957

Renewal Term Begins Sep. 24, 1997

TRADEMARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY ASSIGNMENT. CHANGE OF NAME, CHANGE OF NAME, ASSIGNMENT AND MERGER WITH DOBSON, HARMON A. (UNITED STATES CITIZEN) CORPUS CHRISTIE, TX

FOR: HAMBURGER SANDWICH, IN CLASS 46 (INT. CL. 30).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

SER. NO. 71-667,794, FILED 6-7-1954.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on July 29, 1997.

Int. Cl.: 42

Prior U.S. Cl.: 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 891,082

Registered May 12, 1970

Renewal Approved Feb. 15, 1990

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, ASSIGNEE BY ASSIGNMENT, MERGER AND CHANGES OF NAME FROM DOBSON, GRACE W. (UNITED STATES CITIZEN), DOING BUSINESS AS WHATABURGER DRIVE INNS, CORPUS CHRISTI, TX

OWNER OF U.S. REG. NO. 652,137.

FOR: RESTAURANT SERVICES AND DRIVE IN RESTAURANT SERVICES, IN CLASS 100 (INT. CL. 42).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

SER. NO. 72-291,496, FILED 2-20-1968.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 27, 1990.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 29, 30, 32, 42

Prior U.S. Cl.: 45, 46, 100

United States Patent Office

Reg. No. 1,011,927

Registered May 27, 1975

TRADEMARK
SERVICE MARK
Principal Register

WHATABURGER

Whataburger, Inc. (Texas corporation)
3104 S. Alameda
Corpus Christi, Tex. 78404, by merger and change of name from
Whataburger No. 1, Inc. (Texas corporation)
Corpus Christi, Tex.

For: SOFT DRINKS, in CLASS 45 (INT. CL. 32).

For: HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, POTATO CHIPS, CORN CHIPS, FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANKFURTER SANDWICHES, in CLASS 46 (INT. CLS. 29 and 30).

For: RESTAURANT AND DRIVE-IN RESTAURANT SERVICES, in CLASS 100 (INT. CL. 42).

First use July 18, 1972; in commerce July 28, 1972.
The drawing is lined for the colors orange and brown.

Ser. No. 442,464, filed Nov. 29, 1972.

M. MERCHANT, Examiner

Int. Cl.: 29, 30, 32, 42

Prior U.S. Cl.: 45, 46, 100

United States Patent Office

Reg. No. 1,011,928

Registered May 27, 1975

TRADEMARK
SERVICE MARK
Principal Register

Whataburger, Inc. (Texas corporation)
3104 S. Alameda
Corpus Christi, Tex. 78404, by merger and change of name from
Whataburger No. 1, Inc. (Texas corporation)
Corpus Christi, Tex.

For: SOFT DRINKS, in CLASS 45 (INT. CL. 32).
First use at least as early as July 18, 1972; in commerce on or about July 28, 1972.

For: HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, POTATO CHIPS, CORN CHIPS, FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANKFURTER SANDWICHES, in CLASS 46 (INT. CLS. 29 and 30).
First use at least as early as July 18, 1972; in commerce on or about July 28, 1972.

For: RESTAURANT AND DRIVE-IN RESTAURANT SERVICES, in CLASS 100 (INT. CL. 42).
First use at least as early as July 28, 1972; in commerce on or about July 28, 1972.

The drawing is lined for the colors orange and brown.

Ser. No. 442,465, filed Nov. 29, 1972.

M. MERCHANT, Examiner

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,014,196

Registered June 24, 1975

10 Year Renewal

Renewal Term Begins June 24, 1995

TRADEMARK
PRINCIPAL REGISTER

WHATABURGER JR.

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY CHANGE OF NAME AND ASSIGNMENT FROM LUTZ, GRACE DOBSON (UNITED STATES CITIZEN) CORPUS CHRISTI, TX

OWNER OF U.S. REG. NOS. 652,137, 891,082 AND 963,811.

FOR: PREPARED HAMBURGER SANDWICH FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 29 (U.S. CL. 46).

FIRST USE 4-1-1973; IN COMMERCE 8-29-1973.

SER. NO. 73 017,283, FILED 11-26-1973.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Aug. 8, 1995.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 1,116,918

United States Patent and Trademark Office

Registered Apr. 24, 1979

10 Year Renewal

Renewal Term Begins Apr. 24, 1999

TRADEMARK
PRINCIPAL REGISTER

WHATAMEAL

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981, BY MERGER WITH WHATABURGER SYSTEMS, INC. (TEXAS CORPORATION) CORPUS CHRISTI, TX

FOR: PREPARED MEAL CONSISTING OF A HAMBURGER SANDWICH, FRENCH FRIES AND A BEVERAGE FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 30 (U.S. CL. 46).

FIRST USE 7-1-1975; IN COMMERCE 7-1-1975.

SER. NO. 73-155,977, FILED 1-20-1978.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 30, 1999.

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,206,344
Registered Aug. 24, 1982

TRADEMARK
Principal Register

WHATACATCH

Whataburger Systems, Inc. (Texas corporation)
3104 S. Alameda
Corpus Christi, Tex. 78404

For: BREADED FISH FILLETS SUITABLE FOR FISH SANDWICHES, in CLASS 29 (U.S. Cl. 46).

First use Oct. 14, 1978; in commerce Apr. 1, 1979.

For: PREPARED FISH SANDWICH FOR CONSUMPTION ON OR OFF THE PREMISES, in CLASS 30 (U.S. Cl. 46).

First use Oct. 14, 1978; in commerce Apr. 1, 1979.

Owner of U.S. Reg. Nos. 652,137, 1,011,928 and others.

Ser. No. 226,971, filed Aug. 10, 1979.

JERRY L. PRICE, Primary Examiner

ROBERT C. CLARK JR., Examiner

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,150,703

United States Patent and Trademark Office

Registered Apr. 14, 1998

SERVICE MARK
PRINCIPAL REGISTER

WHATASIZE IT!

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES FEATURING A PREPARED MEAL CONTAINING FRENCH FRIES AND A SOFT DRINK FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 7-4-1994; IN COMMERCE 7-4-1994.

OWNER OF U.S. REG. NOS. 652,137, 1,116,918 AND OTHERS.

SER. NO. 75-261,843, FILED 3-24-1997.

ALICE SUE CARRUTHERS, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,160,285

Registered May 26, 1998

TRADEMARK
PRINCIPAL REGISTER

WHATACHICK'N

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: CHICKEN SANDWICH, IN CLASS 30 (U.S. CL. 46).

FIRST USE 1-1-1984; IN COMMERCE 1-1-1984.

OWNER OF U.S. REG. NOS. 652,137, 1,116,918 AND OTHERS.

SER. NO. 75-261,844, FILED 3-24-1997.

SUSAN LESLIE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,335,590

United States Patent and Trademark Office

Registered Mar. 28, 2000

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

OWNER OF U.S. REG. NOS. 1,011,927, 2,160,285 AND OTHERS.

SER. NO. 75-674,147, FILED 4-5-1999.

DAVID ETTINGER, EXAMINING ATTORNEY

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

Reg. No. 2,372,372

United States Patent and Trademark Office

Registered Aug. 1, 2000

TRADEMARK
PRINCIPAL REGISTER

WHATAKIDS

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: CLOTHING FOR CHILDREN, NAMELY, SHIRTS, POLO SHIRTS, T-SHIRTS, DRESSES, OVERALLS, ONESIES, BASEBALL CAPS AND HATS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 11-0-1998; IN COMMERCE 2-15-1999.

SER. NO. 75-654,525, FILED 3-5-1999.

SUSAN LESLIE DUBOIS, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,418,380

United States Patent and Trademark Office

Registered Jan. 2, 2001

SERVICE MARK
PRINCIPAL REGISTER

WHATAGUY

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

SN 75-698,642, FILED 5-6-1999.

KATHERINE STOIDES, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,432,191

United States Patent and Trademark Office

Registered Feb. 27, 2001

SERVICE MARK
PRINCIPAL REGISTER

WHATAKIDS

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 4-1-1999; IN COMMERCE 4-1-1999.

SN 75-647,561, FILED 2-22-1999.

MITCHELL FRONT, EXAMINING ATTORNEY

Int. Cl.: 16

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38 and 50

Reg. No. 2,519,854

United States Patent and Trademark Office

Registered Dec. 18, 2001

TRADEMARK
PRINCIPAL REGISTER

WHATACOMIX

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE, SUITE 900
WILMINGTON, DE 19801

FOR: COMIC BOOKS AND CHILDREN'S ACTIVITY BOOKS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

SER. NO. 76-188,399, FILED 1-2-2001.

EDWARD TIMBERLAKE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 2,534,527

Registered Jan. 29, 2002

SERVICE MARK
PRINCIPAL REGISTER

WHATAPLACE! WHATATASTE!

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 10-11-1998; IN COMMERCE 10-11-1998.

SN 75-657,290, FILED 3-10-1999.

JASON TURNER, EXAMINING ATTORNEY

Int. Cl.: 36

Prior U.S. Cls.: 100, 101, and 102

United States Patent and Trademark Office

Reg. No. 2,757,109

Registered Aug. 26, 2003

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE
SUITE 900
WILMINGTON, DE 19801

FOR: CHARITABLE FUNDRAISING SERVICES, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-5-2001; IN COMMERCE 10-5-2001.

SN 76-332,382, FILED 10-31-2001.

RUSS HERMAN, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 2,846,139

United States Patent and Trademark Office

Registered May 25, 2004

TRADEMARK
PRINCIPAL REGISTER

WHATABLENDERS

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE
SUITE 900
WILMINGTON, DE 19801

FOR: MILK SHAKE DRINKS, BASES FOR MILK SHAKE DRINKS AND CANDY FLAVORED TOPPINGS THEREFOR, IN CLASS 30 (U.S. CL. 46).

FIRST USE 9-4-2002; IN COMMERCE 11-4-2002.

OWNER OF U.S. REG. NOS. 1,116,918, 2,409,945, AND OTHERS.

SN 76-473,190, FILED 12-6-2002.

DAWN FELDMAN, EXAMINING ATTORNEY

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,185,230

Registered Dec. 19, 2006

SERVICE MARK
PRINCIPAL REGISTER

WHATASIZE

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE, SUITE 900
WILMINGTON, DE 19801

FOR: RESTAURANT SERVICES FEATURING A PREPARED MEAL CONTAINING FRENCH FRIES AND A SOFT DRINK FOR CONSUMPTION ON OR OFF THE PREMISES , IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 0-0-1998; IN COMMERCE 0-0-1998.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 1,011,927 AND 1,011,928.

SER. NO. 76-627,124, FILED 1-7-2005.

ALICE SUE CARRUTHERS, EXAMINING ATTORNEY

Int. Cl.: 41

Prior U.S. Cls.: 100, 101, and 107

United States Patent and Trademark Office

Reg. No. 3,188,132
Registered Dec. 19, 2006

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER FIELD

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE, SUITE 900
WILMINGTON, DE 19801

FOR: PROVIDING STADIUM FACILITIES FOR SPORTING EVENTS, EXHIBITIONS, CONVENTIONS, COMMUNITY FESTIVAL EVENTS AND CONCERTS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 4-6-2005; IN COMMERCE 4-6-2005.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "FIELD", APART FROM THE MARK AS SHOWN.

SN 78-598,999, FILED 3-31-2005.

JUDITH HELFMAN, EXAMINING ATTORNEY

Int. Cl.: 41

Prior U.S. Cls.: 100, 101, and 107

United States Patent and Trademark Office

Reg. No. 3,188,136

Registered Dec. 19, 2006

SERVICE MARK
PRINCIPAL REGISTER

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE, SUITE 900
WILMINGTON, DE 19801

FOR: PROVIDING STADIUM FACILITIES FOR SPORTING EVENTS, EXHIBITIONS, CONVENTIONS, COMMUNITY FESTIVAL EVENTS AND CONCERTS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 4-6-2005; IN COMMERCE 4-6-2005.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "FIELD CORPUS CHRISTI", APART FROM THE MARK AS SHOWN.

SN 78-599,894, FILED 4-1-2005.

JUDITH HELFMAN, EXAMINING ATTORNEY

Trademark Trial and Appeal Board Electronic Filing System. http://estta.uspto.gov
ESTTA Tracking number: **ESTTA172518**
Filing date: **11/02/2007**

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

Proceeding	91179671
Party	Defendant Agroamerica Corporation
Correspondence Address	ALBERT BORDAS, ESQ. ALBERT BORDAS, P.A. 5975 SUNSET DR STE 607 SOUTH MIAMI, FL 33143-5174 UNITED STATES
Submission	Answer
Filer's Name	Albert Bordas, Esq.
Filer's e-mail	tm@bordasiplaw.com
Signature	/ab/
Date	11/02/2007
Attachments	071102.Applicant Answer.wattafruit.91179671.pdf (5 pages)(84408 bytes)

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

In the Matter of Trademark Application No.: 77057347
For the Mark: "WATTAFRUIT & DESIGN"
Filed on: December 5, 2006

Whataburger Partnership A Texas Corporation Petitioner, vs. Agroamerica Corporation A British Virgin Island Corporation Applicant.	)	Opposition No. 91179671

APPLICANT, AGROAMERICA CORPORATION'S ANSWER

Applicant, AGROAMERICA CORPORATION ("Applicant"), by and through its undersigned counsel, hereby files its Answer to Petitioner's, WHATABURGUER PARTNERSHIP, Opposition and states the following:

(Any allegation of Petitioner's Complaint not specifically admitted herein is hereby denied).

1. Defendant is without knowledge of the allegations contained in paragraphs 1, 2, 3, 4, 5, 6, 7a, 7b, 7c, 7d, 7e, 7f, 7g, 7h, 7i, 7j, 7k, 7l, 7m, 7n, 7o, 7p, 7q, 7r, 7s, 7t, 8, 9 and10 of Petitioner's complaint; thus, strict proof thereof is demanded.

2. Paragraph 11 is hereby Admitted as pled.

3. Paragraph 12 is hereby Denied in part as pled. Second sentence is admitted as pled.

4. Paragraphs 13, 14, 15, and16 are hereby Denied as pled.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

5. The Petitioner is not entitled to the relief requested in its Complaint because Applicant owns a family of marks comprising: WATTA that has been used or will be used in interstate commerce for fresh fruits and vegetables.

SECOND AFFIRMATIVE DEFENSE

6. The Petitioner is not entitled to the relief requested in its Complaint because Applicant owns a family of marks comprising: WATTA FRUIT! and Design that has been used or will be used in interstate commerce for fresh fruits and vegetables.

THIRD AFFIRMATIVE DEFENSE

7. The Petitioner is not entitled to the relief requested in its Complaint because Applicant owns a family of marks comprising: WATTABANANA that has been used or will be used in interstate commerce for fresh fruits and vegetables.

FOURTH AFFIRMATIVE DEFENSE

8. The Petitioner is not entitled to the relief requested in its Complaint because Applicant owns a family of marks comprising: WATTAPINEAPPLE that has been used or will be used in interstate commerce for fresh fruits and vegetables.

FIFTH AFFIRMATIVE DEFENSE

9. The Petitioner is not entitled to the relief requested in its Complaint because Applicant owns a family of marks comprising: WATTAPLANTAIN that has been used or will be used in interstate commerce for fresh fruits and vegetables.

SIXTH AFFIRMATIVE DEFENSE

10. The Petitioner is not entitled to the relief requested in its Complaint because Applicant owns a family of marks comprising: WATTARAMBUTAN that has been used or will be used in interstate commerce for fresh fruits and vegetables.

SEVENTH AFFIRMATIVE DEFENSE

11. The Petitioner is not entitled to the relief requested in its Complaint because Applicant owns a family of marks comprising: WATTALYCHI that has been used or will be used in interstate commerce for fresh fruits and vegetables.

EIGTH AFFIRMATIVE DEFENSE

12. The Petitioner is not entitled to the relief requested in its Complaint because Applicant owns a family of marks comprising: WATTAMANGOSTIN that has been used or will be used in interstate commerce for fresh fruits and vegetables.

NINTH AFFIRMATIVE DEFENSE

13. The Petitioner is not entitled to the relief requested in its Complaint because Applicant owns a family of marks comprising: WATTALITTLEBANANA that has been used or will be used in interstate commerce for fresh fruits and vegetables.

TENTH AFFIRMATIVE DEFENSE

14. The Petitioner is not entitled to the relief requested in its Complaint because Applicant owns a family of marks comprising: WATTAMELON that has been used or will be used in interstate commerce for fresh fruits and vegetables.

ELEVENTH AFFIRMATIVE DEFENSE

15. The Petitioner is not entitled to the relief requested in its Complaint because the Petitioner did not Oppose Applicant's mark: WATTA, for fresh fruits and vegetables when it published on May 15, 2007 in the USPTO's Official Gazette.

ELEVENTH AFFIRMATIVE DEFENSE

16. The Petitioner is not entitled to the relief requested in its Complaint because contrary to Petitioner's argument in paragraph 7 Petitioner's Registration No. 2150703 was cancelled long time ago (since 2005) under Section 8 failure to file Statement of use.

WHEREFORE, Applicant, AGROAMERICA CORPORATION, respectfully requests that this Notice of Opposition be dismissed, with judgment entered in its favor and against Opposer Whataburger Partnership, and that this Honorable Court award all other relief to Applicant which it deems fair and reasonable under the circumstances of this case.

Respectfully submitted,
Albert Bordas, P.A.
Counsel for Applicant
5975 Sunset Drive
Suite 607
Miami, FL 33143

e-mail: albert@bordasiplaw.com
Tel: 305-669-9848
Fax: 305-669-9851

By: /Albert Bordas/
Albert Bordas, Esq.
FL Bar No: 330220

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Applicant's Answer was served via Facsimile and U.S. Mail this 30th day of October 2007 to the following person(s):

Whataburguer Partnership
Mr. J. Timothy Hobbs
One Whataburger Way
Corpus Christi, Texas 78411

By: /Albert Bordas/
Albert Bordas, Esq.

CERTIFICATE OF ONLINE SUBMISSION

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed online with

the Trademark Trail and Appeal Board using ESTTA, this 30th day of October, 2007.

By: /Albert Bordas/
Albert Bordas, Esq.

Trademark Trial and Appeal Board Electronic Filing System. http://estta.uspto.gov

ESTTA Tracking number: **ESTTA314933**

Filing date: **11/03/2009**

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

Proceeding	91179671
Party	Plaintiff Whataburger Partnership
Correspondence Address	Christopher Kelly Wiley Rein LLP 1776 K Street, N.W. Washington, DC 20006 UNITED STATES ckelly@wileyrein.com
Submission	Other Motions/Papers
Filer's Name	Christopher Kelly
Filer's e-mail	ckelly@wileyrein.com
Signature	/CK/
Date	11/03/2009
Attachments	DOC111.PDF (2 pages)(73973 bytes)

EXHIBIT A

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

WHATABURGER PARTNERSHIP	)	
	)	
Opposer,	)	
	)	**Opposition No.:** **91179671**
v.	)	**Serial No.:** **77/057,347**
	)	**Mark:** **WATTAFRUIT**
	)	**& Design**
AGROAMERICA CORPORATION	)	
	)	
Applicant.	)	

STIPULATED MOTION REQUESTING AMENDMENT WITH CONSENT AND CONTINGENT DISMISSAL OF OPPOSITION PROCEEDING

Comes now Applicant, Agroamerica Corporation ("Applicant"), pursuant to 37 C.F.R. § 2.133, with the consent of Opposer, Whataburger Partnership ("Opposer"), and hereby requests amendment of the identification of goods in opposed application Ser. No. 77/057,347 – WATTAFRUIT & Design such that the identification is narrowed to read "fresh fruits and vegetables not sold through restaurants, including quick and full-service restaurants."

Contingent upon the Board's acceptance of Applicant's request for amendment set forth above, Opposer requests that the Board dismiss Opposition No. 91/182,997.

Respectfully submitted,

WHATABURGER PARTNERSHIP

By: _____
Christopher Kelly
Jennifer Elgin
WILEY REIN LLP
1776 K Street, N.W.
Washington, D.C. 20006
Attorneys for Opposer

Dated: 11/3/09

AGROAMERICA CORPORATION

By: _____
Albert Bordas, Esq.
Albert Bordas, P.A.
Patent, Trademark, and Copyright Law
5975 Sunset Drive, Suite 607
Miami, Florida 33143
Attorneys for Applicant

Dated: Oct. 29, 2009

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of November 2009 I served the foregoing **STIPULATED MOTION REQUESTING AMENDMENT WITH CONSENT AND CONTINGENT DISMISSAL OF OPPOSITION PROCEEDING** by causing a copy thereof to be deposited in the United States mail, postage prepaid and addressed as follows:

Albert Bordas, Esq.
Albert Bordas, P.A.
Patent, Trademark and Copyright Law
5975 Sunset Drive, Suite 607
Miami, Florida 33143

Christopher Kelly

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

nmt/coggins

Mailed: November 9, 2009

Opposition No. 91179671

Whataburger Partnership

v.

Agroamerica Corporation

On November 3, 2009, the parties filed applicant's proposed amendment to application Serial No. 77057347, with opposer's written consent; and opposer's withdrawal of the opposition, contingent upon entry of the amendment, with applicant's written consent.

By the proposed amendment applicant seeks to change the identification of goods in International Class 31 from "Fresh fruits; Fresh vegetables" to "Fresh fruits and vegetables not sold through restaurants, including quick and full-service restaurants." Inasmuch as the amendment is clearly limiting in nature as required by Trademark Rule 2.71(a), and because opposer consents thereto, it is approved and entered. *See* Trademark Rule 2.133(a). The contingency in opposer's withdrawal having now been met, the opposition is dismissed without prejudice.

By the Trademark Trial and Appeal Board

Exhibit A2

OIPE IAP97
FEB 07 2007
PATENT & TRADEMARK OFFICE

TTAB
78679691

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

WHATABURGER PARTNERSHIP	)	
	)	
Opposer,	)	
	)	Opposition No.: _____
v.	)	
	)	
COM-PAC INTERNATIONAL, INC.	)	
	)	
Applicant.	)	

NOTICE OF OPPOSITION

Whataburger Partnership, a general partnership organized under the laws of Texas, with offices located at One Whataburger Way, Corpus Christi Way, Corpus Christi, Texas 78411, hereby opposes registration of application Ser. No. 78/679,691 – **WHATABAG** for "plastic bags for packaging," in International Class 16, filed July 27, 2005, by COM-PAC International, Inc. ("Applicant"), and published for purposes of opposition in the Official Gazette dated October 10, 2006. Whataburger Partnership will be damaged should the opposed application mature to registration. Whataburger Partnership puts forth the following grounds for opposition:

1. Whataburger Partnership, successor in interest to WhataPartnership, L.P., is the owner of all right, title and interest in and to the trademarks and service marks pleaded in this Notice of Opposition and licenses said marks for use in connection with the WHATABURGER restaurant system (Whataburger Partnership and its licensees are collectively referred to as "Opposer").

2. Opposer operates over 500 restaurants under the WHATABURGER name in the United States and Mexico.

[redacted]
02-07-2007
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #2

3. Opposer, through its predecessors in interest, adopted and commenced use of the WHATABUGER name as a service mark for restaurants services in 1950 and has used the name continuously and without interruption to the present day.

4. Opposer uses the WHATABURGER name not only to identify its restaurant services, but also as a trademark to identify food products sold at its restaurants and elsewhere.

5. Opposer has developed a family of WHATA marks to identify its food products, and collateral products and services, such as printed materials, clothing and stadium services.

6. Based on Opposer's extensive, exclusive and continuous use of its WHATABURGER and WHATA marks in connection with restaurant services, food products and collateral goods, the name WHATABURGER and Opposer's other WHATA marks have come to be recognized among the consuming public as designators of origin with respect to said services and products.

7. Opposer is the owner of all right, title and interest in and to the following federal service mark and trademark registrations, which presently are valid and subsisting in law. Opposer will submit current status and title copies, prepared by the Patent and Trademark Office, of its pleaded registrations at the appropriate time in this proceeding. Photocopies are attached hereto as Exhibit A.

(a) Registration No. 652,137 – **WHATABURGER** for "hamburger sandwich," registered on the Principal Register September 24, 1957.

(b) Registration No. 891,082 – **WHATABURGER** for "restaurant services and drive in restaurant services," registered on the Principal Register May 12, 1970.

(c) Registration No. 1,011,927 – **WHATABURGER** for "hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches" and "restaurant and drive-in restaurant services," registered on the Principal Register on May 27, 1975.

(d) Registration No. 1,011,928 – **WHATABURGER & W Design** for "hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches" and "restaurant and drive-in restaurant services," registered on the Principal Register on May 27, 1975.

(e) Registration No. 1,014,196 – **WHATABURGER JR.** for "prepared hamburger sandwich for consumption on or off premises," registered on the Principal Register on June 24, 1975.

(f) Registration No. 1,116,918 – **WHATAMEAL** for "prepared meal consisting of a hamburger sandwich, french fries and a beverage for consumption on or off the premises," registered on the Principal Register April 24, 1979.

(g) Registration No. 1,206,344 – **WHATACATCH** for "breaded fish fillets suitable for fish sandwiches" and "prepared fish sandwich for consumption on or off the premises," registered on the Principal Register August 24, 1982.

(h) Registration No. 2,150,703 – **WHATASIZE IT!** for "restaurant services featuring a prepared meal containing french fries and a soft drink for consumption on or off the premises," registered on the Principal Register April 14, 1998.

(i) Registration No. 2,160,285 – **WHATACHICK'N** for "chicken sandwich," registered on the Principal Register May 26, 1998.

(j) Registration No. 2,335,590 – **WHATABURGER** for "restaurant services," registered on the Principal Register March 28, 2000.

(k) Registration No. 2,372,372 – **WHATAKIDS** for "clothing for children, namely, shirts, polo shirts, t-shirts, dresses, overalls, onesies, baseball caps and hats," registered on the Principal Register August 1, 2000.

(l) Registration No. 2,409,945 – **WHATACHILL** for "frozen flavored fruit drinks offered for sale exclusively through applicant's restaurants," registered on the Principal Register December 5, 2000.

(m) Registration No. 2,418,380 – **WHATAGUY** for "restaurant services," registered on the Principal Register January 2, 2000.

(n) Registration No. 2,432,191 – **WHATAKIDS** for "restaurant services," registered on the Principal Register February 27, 2001.

(o) Registration No. 2,519,854 – **WHATACOMIX** for "comic books and children's activity books," registered on the Principal Register December 18, 2001.

(p) Registration No. 2,534,527 – **WHATAPLACE! WHATATASTE!** for "restaurant services," registered on the Principal Register January 29, 2002.

(q) Registration No. 2,757,109 – **WHATABURGER** for "charitable fundraising services," registered on the Principal Register August 26, 2003.

(r) Registration No. 2,846,139 – **WHATABLENDERS** for "milk shake drinks, bases for milk shake drinks and candy flavored toppings," registered on the Principal Register May 25, 2004.

(s) Registration No. 3,185,230 – **WHATASIZE** for "restaurant services featuring a prepared meal containing french fries and a soft drink for consumption on or off the premises," registered on the Principal Register December 19, 2006.

(t) Registration No. 3,188,132 – **WHATABURGER FIELD** for "providing stadium facilities for sporting events, exhibitions, conventions, community festival events and concerts," registered on the Principal Register December 19, 2006.

(u) Registration No. 3,188,136 – **WHATABURGER FIELD & Design** for "providing stadium facilities for sporting events, exhibitions, conventions, community festival events and concerts," registered on the Principal Register December 19, 2006.

8. Opposer's Reg. Nos. 652,137; 891,082: 1,011,927; 1,011,928; 1,014,196; 1,116,918; 1,206,344; 2,150,703; 2,160,285 and 2,335,590 are incontestable as to the products and services listed therein and are conclusive evidence of the validity of the registered marks, Opposer's ownership thereof, and of Opposer's exclusive right to use the marks in commerce on or in connection with the products and services identified in the registrations.

9. By reason of Opposer's extensive, exclusive and continuous use of its WHATABURGER and WHATA marks, Opposer has become known and recognized as the owner of the aforesaid marks.

10. On information and belief, Applicant has adopted and uses the designation WHATABAG in connection with plastic bags for packaging.

11. The product identified in the opposed application is closely related to the products and services offered by Opposer under its WHATABURGER and WHATA marks. The product in the opposed application is not restricted as to types of customers and channels of trade.

12. The designation WHATABAG so resembles Opposer's WHATABURGER and WHATA marks in terms of appearance, sound, connotation and commercial impression as to be likely, when applied to Applicant's goods, to cause confusion and mistake and to deceive.

13. The designation WHATABAG is confusingly similar to Opposer's WHATABURGER and WHATA marks so that registration of the designation would be inconsistent with and damaging to Opposer's exclusive rights in its registered marks in connection with the products and services with which they are used.

14. Any defect, objection or fault found with any product or service sold under the designation WHATABAG would injure the valuable reputation and goodwill Opposer has established for products and services sold under its WHATABURGER and WHATA marks.

15. Opposer will be damaged by registration of Applicant's proposed designation.

WHEREFORE, Opposer prays that its opposition be sustained and that the opposed mark be denied registration.

Opposer hereby authorizes the filing fee of THREE HUNDRED DOLLARS ($300.00) and any additional charges necessary to institute this proceeding in two classes to be debited from the deposit account of Wiley Rein, Account No. 501129.

This opposition is being filed by the undersigned attorneys at law, duly authorized to represent Opposer in this proceeding, pursuant to Trademark Rule 2.101(b).

Respectfully submitted,

WHATABURGER PARTNERSHIP

By: _____

J. Timothy Hobbs
Christopher Kelly
Jennifer Elgin
Wiley Rein LLP
1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000

Attorneys for Whataburger Partnership

Dated: February 7, 2007
12557716.1

EXHIBIT A

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 652,137

Registered Sep. 24, 1957

Renewal Term Begins Sep. 24, 1997

TRADEMARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY ASSIGNMENT, CHANGE OF NAME, CHANGE OF NAME, ASSIGNMENT AND MERGER WITH DOBSON, HARMON A. (UNITED STATES CITIZEN) CORPUS CHRISTIE, TX

FOR: HAMBURGER SANDWICH, IN CLASS 46 (INT. CL. 30).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

SER. NO. 71-667,794, FILED 6-7-1954.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on July 29, 1997.

Int. Cl.: 42

Prior U.S. Cl.: 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 891,082
Registered May 12, 1970
Renewal Approved Feb. 15, 1990

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, ASSIGNEE BY ASSIGNMENT, MERGER AND CHANGES OF NAME FROM DOBSON, GRACE W. (UNITED STATES CITIZEN), DOING BUSINESS AS WHATABURGER DRIVE INNS, CORPUS CHRISTI, TX

OWNER OF U.S. REG. NO. 652,137.

FOR: RESTAURANT SERVICES AND DRIVE IN RESTAURANT SERVICES, IN CLASS 100 (INT. CL. 42).

FIRST USE 1-1-1950, IN COMMERCE 2-10-1953.

SER. NO. 72-291,496, FILED 2-20-1968.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 27, 1990.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cls.: 29, 30, 32 and 42

Prior U.S. Cls.: 45, 46 and 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 1,011,927

Registered May 27, 1975

Renewal Term Begins May 27, 1995

TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY CHANGE OF NAME, ASSIGNMENT AND MERGER WITH WHATABURGER, INC. (TEXAS CORPORATION) CORPUS CHRISTI, TX

THE DRAWING IS LINED FOR THE COLORS ORANGE AND BROWN, BUT COLOR IS NOT CLAIMED AS A FEATURE OF THE MARK.

FOR: SOFT DRINKS, IN CLASS 45 (INT. CL. 32).
FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

FOR: HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, [POTATO CHIPS, CORN CHIPS,] FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANKFURTER SANDWICHES, IN CLASS 46 (INT. CLS. 29 AND 30).
FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

FOR: RESTAURANT AND DRIVE-IN RESTAURANT SERVICES, IN CLASS 100 (INT. CL. 42).
FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

SER. NO. 72-442,464, FILED 11-29-1972.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on July 2, 1996.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cls.: 29, 30, 32 and 42

Prior U.S. Cls.: 45, 46 and 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 1,011,928

Registered May 27, 1975

Renewal Term Begins May 27, 1995

TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY CHANGE OF NAME, ASSIGNMENT AND MERGER WITH LUTZ, GRACE DOBSON (UNITED STATES CITIZEN), AKA GRACE W. DOBSON, CORPUS CHRISTI, TX

THE DRAWING IS LINED FOR THE COLORS ORANGE AND BROWN, BUT COLOR IS NOT CLAIMED AS A FEATURE OF THE MARK.

FOR: SOFT DRINKS, IN CLASS 45 (INT. CL. 32).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

FOR: HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, [POTATO CHIPS, CORN CHIPS,] FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANK-

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 5, 1996.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,014,196

Registered June 24, 1975

10 Year Renewal

Renewal Term Begins June 24, 1995

TRADEMARK
PRINCIPAL REGISTER

WHATABURGER JR.

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY CHANGE OF NAME AND ASSIGNMENT FROM LUTZ GRACE DOBSON (UNITED STATES CITIZEN) CORPUS CHRISTI, TX

OWNER OF U.S. REG. NOS. 652,137, 891,082 AND 963,811.

FOR: PREPARED HAMBURGER SANDWICH FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 29 (U.S. CL. 46).

FIRST USE 4-1-1973; IN COMMERCE 8-29-1973.

SER. NO. 73-017,283, FILED 11-26-1973.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Aug. 8, 1995.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 1,116,918

Registered Apr. 24, 1979

Renewal Term Begins Apr. 24, 1999

TRADEMARK
PRINCIPAL REGISTER

WHATAMEAL

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981, BY MERGER WITH WHATABURGER SYSTEMS, INC. (TEXAS CORPORATION) CORPUS CHRISTI, TX

FOR: PREPARED MEAL CONSISTING OF A HAMBURGER SANDWICH, FRENCH FRIES AND A BEVERAGE FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 30 (U.S. CL. 46).

FIRST USE 7-1-1975; IN COMMERCE 7-1-1975.

SER. NO. 73-155,977, FILED 1-20-1978.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 30, 1999.

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,206,344
Registered Aug. 24, 1982

TRADEMARK
Principal Register

WHATACATCH

Whataburger Systems, Inc. (Texas corporation)
3104 S. Alameda
Corpus Christi, Tex. 78404

For: BREADED FISH FILLETS SUITABLE FOR FISH SANDWICHES, in CLASS 29 (U.S. Cl. 46).

First use Oct. 14, 1978; in commerce Apr. 1, 1979.

For: PREPARED FISH SANDWICH FOR CONSUMPTION ON OR OFF THE PREMISES, in CLASS 30 (U.S. Cl. 46).

First use Oct. 14, 1978; in commerce Apr. 1, 1979.

Owner of U.S. Reg. Nos. 652,137, 1,011,928 and others.

Ser. No. 226,971, filed Aug. 10, 1979.

JERRY L. PRICE, Primary Examiner

ROBERT C. CLARK JR., Examiner

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,150,703

United States Patent and Trademark Office

Registered Apr. 14, 1998

SERVICE MARK
PRINCIPAL REGISTER

WHATASIZE IT!

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES FEATURING A PREPARED MEAL CONTAINING FRENCH FRIES AND A SOFT DRINK FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 7-4-1994; IN COMMERCE 7-4-1994.

OWNER OF U.S. REG. NOS. 652,137, 1,116,918 AND OTHERS.

SER. NO. 75-261,843, FILED 3-24-1997.

ALICE SUE CARRUTHERS, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,160,285

Registered May 26, 1998

TRADEMARK
PRINCIPAL REGISTER

WHATACHICK'N

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: CHICKEN SANDWICH, IN CLASS 30 (U.S. CL. 46).

FIRST USE 1-1-1984; IN COMMERCE 1-1-1984.

OWNER OF U.S. REG. NOS. 652,137, 1,116,918 AND OTHERS.

SER. NO. 75-261,844, FILED 3-24-1997.

SUSAN LESLIE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,335,590

United States Patent and Trademark Office

Registered Mar. 28, 2000

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

OWNER OF U.S. REG. NOS. 1,011,927, 2,160,285 AND OTHERS.

SER. NO. 75-674,147, FILED 4-5-1999.

DAVID ETTINGER, EXAMINING ATTORNEY

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 2,372,372

Registered Aug. 1, 2000

TRADEMARK
PRINCIPAL REGISTER

WHATAKIDS

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: CLOTHING FOR CHILDREN, NAMELY, SHIRTS, POLO SHIRTS, T-SHIRTS, DRESSES, OVERALLS, ONESIES, BASEBALL CAPS AND HATS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 11-0-1998; IN COMMERCE 2-15-1999.

SER. NO. 75-654,525, FILED 3-5-1999.

SUSAN LESLIE DUBOIS, EXAMINING ATTORNEY

Int. Cl.: 32

Prior U.S. Cls.: 45, 46 and 48

Reg. No. 2,409,945

United States Patent and Trademark Office

Registered Dec. 5, 2000

TRADEMARK
PRINCIPAL REGISTER

WHATACHILL

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: FROZEN FLAVORED FRUIT DRINKS OFFERED FOR SALE EXCLUSIVELY THROUGH APPLICANT'S RESTAURANTS, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 10-0-1997; IN COMMERCE 10-0-1997.

SER. NO. 75-621,986, FILED 1-15-1999.

MITCHELL FRONT, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,418,380

United States Patent and Trademark Office

Registered Jan. 2, 2001

SERVICE MARK
PRINCIPAL REGISTER

WHATAGUY

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

SN 75-698,642, FILED 5-6-1999.

KATHERINE STOIDES, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,432,191

United States Patent and Trademark Office

Registered Feb. 27, 2001

SERVICE MARK
PRINCIPAL REGISTER

WHATAKIDS

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FIRST USE 4-1-1999; IN COMMERCE 4-1-1999.

SN 75-647,561, FILED 2-22-1999.

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

MITCHELL FRONT, EXAMINING ATTORNEY

Int. Cl.: 16

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38 and 50

Reg. No. 2,519,854

Registered Dec. 18, 2001

United States Patent and Trademark Office

TRADEMARK
PRINCIPAL REGISTER

WHATACOMIX

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE, SUITE 900
WILMINGTON, DE 19801

FOR: COMIC BOOKS AND CHILDREN'S ACTIVITY BOOKS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

SER. NO. 76-188,399, FILED 1-2-2001.

EDWARD TIMBERLAKE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 2,534,527

Registered Jan. 29, 2002

SERVICE MARK
PRINCIPAL REGISTER

WHATAPLACE! WHATATASTE!

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411-2981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 10-11-1998; IN COMMERCE 10-11-1998.

SN 75-657,290, FILED 3-10-1999.

JASON TURNER, EXAMINING ATTORNEY

Int. Cl.: 36

Prior U.S. Cls.: 100, 101, and 102

United States Patent and Trademark Office

Reg. No. 2,757,109
Registered Aug. 26, 2003

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE
SUITE 900
WILMINGTON, DE 19801

FOR: CHARITABLE FUNDRAISING SERVICES, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-5-2001; IN COMMERCE 10-5-2001.

SN 76-332,382, FILED 10-31-2001.

RUSS HERMAN, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 2,846,139

United States Patent and Trademark Office

Registered May 25, 2004

TRADEMARK
PRINCIPAL REGISTER

WHATABLENDERS

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE
SUITE 900
WILMINGTON, DE 19801

FOR: MILK SHAKE DRINKS, BASES FOR MILK SHAKE DRINKS AND CANDY FLAVORED TOPPINGS THEREFOR, IN CLASS 30 (U.S. CL. 46).

FIRST USE 9-4-2002; IN COMMERCE 11-4-2002.

OWNER OF U.S. REG. NOS. 1,116,918, 2,409,945, AND OTHERS.

SN 76-473,190, FILED 12-6-2002.

DAWN FELDMAN, EXAMINING ATTORNEY

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,185,230

Registered Dec. 19, 2006

SERVICE MARK
PRINCIPAL REGISTER

WHATASIZE

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE, SUITE 900
WILMINGTON, DE 19801

FOR: RESTAURANT SERVICES FEATURING A PREPARED MEAL CONTAINING FRENCH FRIES AND A SOFT DRINK FOR CONSUMPTION ON OR OFF THE PREMISES , IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 0-0-1998; IN COMMERCE 0-0-1998.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 1,011,927 AND 1,011,928.

SER. NO. 76-627,124, FILED 1-7-2005.

ALICE SUE CARRUTHERS, EXAMINING ATTORNEY

Int. Cl.: 41

Prior U.S. Cls.: 100, 101, and 107

United States Patent and Trademark Office

Reg. No. 3,188,132

Registered Dec. 19, 2006

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER FIELD

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE, SUITE 900
WILMINGTON, DE 19801

FOR: PROVIDING STADIUM FACILITIES FOR SPORTING EVENTS, EXHIBITIONS, CONVENTIONS, COMMUNITY FESTIVAL EVENTS AND CONCERTS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 4-6-2005; IN COMMERCE 4-6-2005.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "FIELD", APART FROM THE MARK AS SHOWN.

SN 78-598,999, FILED 3-31-2005.

JUDITH HELFMAN, EXAMINING ATTORNEY

Int. Cl.: 41

Prior U.S. Cls.: 100, 101, and 107

United States Patent and Trademark Office

Reg. No. 3,188,136

Registered Dec. 19, 2006

SERVICE MARK

PRINCIPAL REGISTER

WHATAPARTNERSHIP, L.P. (DELAWARE LIMITED PARTNERSHIP)
300 DELAWARE AVENUE, SUITE 900
WILMINGTON, DE 19801

FOR: PROVIDING STADIUM FACILITIES FOR SPORTING EVENTS, EXHIBITIONS, CONVENTIONS, COMMUNITY FESTIVAL EVENTS AND CONCERTS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 4-6-2005; IN COMMERCE 4-6-2005.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "FIELD CORPUS CHRISTI", APART FROM THE MARK AS SHOWN.

SN 78-599,894, FILED 4-1-2005.

JUDITH HELFMAN, EXAMINING ATTORNEY

Trademark Trial and Appeal Board Electronic Filing System. http://estta.uspto.gov
ESTTA Tracking number: **ESTTA139703**
Filing date: **05/09/2007**

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

Proceeding	91175612
Party	Defendant Com-Pac International, Inc. Com-Pac International, Inc. 800 Industrial Park Road Carbondale, IL 62902
Correspondence Address	ROBERT S. BEISER VEDDER PRICE KAUFMAN & KAMMHOLZ 222 N LASALLE ST STE 2600 CHICAGO, IL 60601-1100 UNITED STATES rzachar@vedderprice.com
Submission	Answer
Filer's Name	Richard A. Zachar
Filer's e-mail	rzachar@vedderprice.com, rbeiser@vedderprice.com
Signature	/Richard A. Zachar/
Date	05/09/2007
Attachments	Answer.pdf (3 pages)(80678 bytes)

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

WHATAPARTNERSHIP, L.P. Opposer, v. COM-PAC INTERNATIONAL, INC. Applicant.	Opposition No. 78/679,691

ANSWER TO NOTICE OF OPPOSITION

Applicant COM-PAC INTERNATIONAL, INC. ("COM-PAC") by its attorneys by its attorneys responds to the Notice of Opposition as follows:

1. Com-Pac is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1 and therefore denies same.

2. Com-Pac is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 2 and therefore denies same.

3. Com-Pac is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3 and therefore denies same.

4. Com-Pac is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4 and therefore denies same.

5. Com-Pac denies the allegations of paragraph 5.

6. Com-Pac denies the allegations of paragraph 6.

7. Com-Pac is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7 and therefore denies same.

8. Com-Pac is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8 and therefore denies same.

9. Com-Pac denies the allegations of paragraph 9.

10. Com-Pac admits the allegations of Paragraph 10.

11. Com-Pac admits the goods are not restricted as to types of customers and channels of trade and denies the remaining allegation of paragraph 11.

12. Com-Pac denies the allegations of paragraph 12.

13. Com-Pac denies the allegations of paragraph 13.

14. Com-Pac denies the allegations of paragraph 14.

15. Com-Pac denies the allegations of paragraph 15.

DEFENSES

1. There is no likehood of confusion between the parties' marks.

2. The words WHATA and WHAT A have been commonly used in connection with numerous goods and marks containing the words WHATA and WHAT A for numerous products have been registered by a large number of third parties.

3. The third party use and registration of terms containing the words WHATA and WHAT A further negates any likelihood of confusion.

4. The words WHATA and WHAT A are laudatory and merely descriptive.

WHEREFORE, Applicant prays that the opposition be dismissed and that Applicant be granted a certificate of registration.

COM-PAC INTERNATIONAL, INC.

Dated: May 9, 2007

By: _____

Robert S. Beiser
Richard A. Zachar
Vedder, Price, Kaufman & Kammholz, P.C.
222 North LaSalle Street
Chicago, Illinois 60601-1003
(312) 609-7500

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Answer to Notice of Opposition was served on the attorney for Petitioner by first class mail, postage prepaid, addressed to:

Christopher Kelly
Wiley Rein & Fielding LLP
1776 K Street N.W.
Washington, DC 20006

this 9th day of May, 2007.

Richard A. Zachar

Trademark Trial and Appeal Board Electronic Filing System. http://estta.uspto.gov

ESTTA Tracking number: **ESTTA173376**

Filing date: **11/07/2007**

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

Proceeding	91175612
Party	Defendant Com-Pac International, Inc.
Correspondence Address	ROBERT S. BEISER VEDDER PRICE KAUFMAN & KAMMHOLZ 222 N LASALLE ST STE 2600 CHICAGO, IL 60601-1100 UNITED STATES rzachar@vedderprice.com
Submission	Motion to Amend Application
Filer's Name	Robert S. Beiser
Filer's e-mail	rbeiser@vedderprice.com, rzachar@vedderprice.com, avilleneuve@vedderprice.com
Signature	/Robert S. Beiser/
Date	11/07/2007
Attachments	Consent Motion to Amend.pdf (2 pages)(36952 bytes)

TRADEMARK
21276.00.0011

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

WHATAPARTNERSHIP, L.P. Opposer, v. COM-PAC INTERNATIONAL, INC. Applicant.	Opposition No. 91175612 Serial No. 78/679,691

CONSENT MOTION TO AMEND APPLICATION

The parties have reached settlement of this matter by the terms of which Com-Pac International, Inc. is to amend its recitiation of goods as follows:

"Plastic bags sold empty at wholesale to commercial entities, excluding sales to the retail food service industry."

A consent motion to suspend proceedings is being filed concurrently herewith.

Dated: November 7, 2007

COM-PAC INTERNATIONAL, INC.

By: Robert S. Beiser

Robert S. Beiser
Richard A. Zachar
Vedder, Price, Kaufman & Kammholz, P.C.
222 North LaSalle Street
Chicago, Illinois 60601-1003
(312) 609-7500

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Consent Motion to Amend Application was served on the attorney for Opposer by first class mail, postage prepaid, addressed to:

Christopher Kelly
Wiley Rein & Fielding LLP
1776 K Street N.W.
Washington, DC 20006

this 7th day of November, 2007.

Robert S. Beiser

TTAB

OFFICE USPTO
DEC 04 2007
PATENT & TRADEMARK OFFICE

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

WHATAPARTNERSHIP, L.P.	)	
	)	
Opposer,	)	# 78679691
	)	
v.	)	Opposition No. 91175612
	)	
COM-PAC INTERNATIONAL, INC.,	)	
	)	
Applicant	)	
	)	

STIPULATED WITHDRAWAL OF OPPOSITION

NOW COMES Opposer, WhataPartnership, L.P., by and through undersigned counsel and with Applicant's consent, and hereby withdraws its Notice of Opposition in the above captioned matter.

Respectfully submitted,

WHATAPARTNERSHIP, L.P.

By: _____
Christopher Kelly
Wiley Rein LLP
1776 K Street, N.W.
Washington, D.C. 20006

Attorneys for Opposer

Dated: 12/04/07

COM-PAC INTERNATIONAL, INC.

By: _____
Richard A. Zachar
Vedder, Price, Kaufman & Kammholz, P.C.
222 North LaSalle Street, Ste. 2600
Chicago, IL 60601-1003

Attorneys for Applicant

Dated: 12/04/07

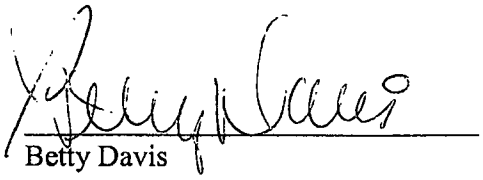
12744462.1

12-04-2007
U.S. Patent & TMOfc/TM Mail Rcpt Dt #5

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of December 2007, I served the foregoing **STIPULATED WITHDRAWAL OF OPPOSITION** by causing a copy thereof to be deposited in the United States mail, postage prepaid and addressed as follows:

Richard A. Zacher
Vedder, Price, Kaufman & Kammholz, P.C.
222 North LaSalle Street, Suite 2600
Chicago, IL 60601-1003



Betty Davis

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

lg

Mailed: December 6, 2007

Opposition No. 91175612

WhataPartnership, L.P.

v.

Com-Pac International, Inc.

On November 16, 2007, the Board approved the amendment to applicant's identification of goods in application Serial No. 78679691, and allowed opposer time in which to file a withdrawal of the opposition.

On December 4, 2007, opposer filed a withdrawal of the opposition. In view thereof, the opposition is dismissed.

By the Trademark Trial and Appeal Board

Exhibit A3

TTAB

TM

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

WHATAPARTNERSHIP, L.P.,

Opposer,

v.

HALBRO, LLC

Applicant.

Opposition No.: _____

NOTICE OF OPPOSITION

WhataPartnership, L.P., a limited partnership organized under the laws of Delaware, with offices located at 300 Delaware Avenue, Suite 900, Wilmington, Delaware 19801 (hereinafter "Opposer"), hereby opposes registration of Service Mark Application Serial No. 76/579,951 – **THE "WOW!...WHAT A SUB!!" BOYZ SUBS & STEAKS & Design** covering "restaurant and take-out food services" in International Class 43, filed on March 8, 2004 by Halbro, LLC, a New Jersey limited liability company with offices at Springdale & Greentree Roads, Cherry Hill, New Jersey 08003 (hereinafter "Applicant"), and published for purposes of opposition in the *Official Gazette of the U.S Patent and Trademark Office* dated June 28, 2005 at page 1292. Opposer will be damaged should the opposed application mature to registration and puts forth the following grounds for opposition:

1. Opposer is the owner of all right, title and interest in and to the trademarks and service marks pleaded in this Notice of Opposition and licenses to Whataburger, Inc., a Texas corporation with principal offices at 4600 Parkdale Drive, Corpus Christi, Texas 74811-9230, the right to operate and to authorize franchisees to operate restaurants using the pleaded marks and service marks.

08/12/2005 SWILSON1 00000013 501129 76579951
01 FC:6402 300.00 DA

08-05-2005
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #72

sound, connotation and commercial impression as to be likely, when applied to the food services identified in the opposed application, to cause confusion and mistake and to deceive.

13. Applicant's proposed mark is confusingly similar to Opposer's WHATABURGER and family of WHATA marks so that registration of Applicant's mark would be inconsistent with and damaging to Opposer's exclusive rights in and to its registered marks in connection with the products and services with which they are used.

14. Opposer will be damaged by registration of Applicant's proposed designation.

WHEREFORE, Opposer prays that its opposition be sustained and that Applicant's proposed mark be denied registration.

Opposer hereby authorizes the filing fee of THREE HUNDRED DOLLARS ($300.00) and any additional charges necessary to institute this proceeding to be debited to the deposit account of Wiley Rein & Fielding, Account No. 501129.

This opposition is being filed by the undersigned attorneys at law, duly authorized to represent Opposer in this proceeding, pursuant to Trademark Rule 2.101(b).

Respectfully submitted,

WHATAPARTNERSHIP, L.P.

By: _____

J. Timothy Hobbs
Christopher Kelly
Wiley Rein & Fielding LLP
1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000

Attorneys for WhataPartnership, L.P.

Dated: August 5, 2005

2. Opposer, either directly or through its franchisees, operates over 500 restaurants in the United States and Mexico under the WHATABURGER name.

3. Opposer, through its predecessors in interest, adopted and commenced use of the WHATABURGER name as a service mark for restaurants services in 1950 and has used the name continuously and without interruption to the present day.

4. Opposer uses the WHATABURGER name not only to identify restaurant services, but also as a trademark to identify a diverse array of food products.

5. Opposer has developed a family of WHATA marks to its identify food products, and collateral goods such as printed materials and clothing.

6. Based on Opposer's extensive, exclusive and continuous use of its WHATABURGER and WHATA marks in connection with restaurant services, food products and collateral goods, the name WHATABURGER and Opposer's other WHATA marks have come to be recognized among the consuming public as designators of origin with respect to said services and products.

7. Opposer is the owner of all right, title and interest in and to the following federal service mark and trademark registrations, which presently are valid and subsisting in law. Opposer will submit current status and title copies, prepared by the Patent and Trademark Office, of its pleaded registrations at the appropriate time in this proceeding. Photocopies are attached hereto as Exhibit A.

(a) Registration No. 652,137 – **WHATABURGER** for "hamburger sandwich," registered on the Principal Register September 24, 1957.

(b) Registration No. 891,082 – **WHATABURGER** for "restaurant services and drive in restaurant services," registered on the Principal Register May 12, 1970.

(c) Registration No. 1,011,927 – **WHATABURGER** for "hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches" and "restaurant and drive-in restaurant services," registered on the Principal Register on May 27, 1975.

(d) Registration No. 1,011,928 – **WHATABURGER & W Design** for "hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches" and "restaurant and drive-in restaurant services," registered on the Principal Register on May 27, 1975.

(e) Registration No. 1,014,196 – **WHATABURGER JR.** for "prepared hamburger sandwich for consumption on or off premises," registered on the Principal Register on June 24, 1975.

(f) Registration No. 1,116,918 – **WHATAMEAL** for "prepared meal consisting of a hamburger sandwich, french fries and a beverage for consumption on or off the premises," registered on the Principal Register April 24, 1979.

(g) Registration No. 1,206,344 – **WHATACATCH** for "breaded fish fillets suitable for fish sandwiches" and "prepared fish sandwich for consumption on or off the premises," registered on the Principal Register August 24, 1982.

(h) Registration No. 2,150,703 – **WHATASIZE IT!** for "restaurant services featuring a prepared meal containing french fries and a soft drink for consumption on or off the premises," registered on the Principal Register April 14, 1998.

(i) Registration No. 2,160,285 – **WHATACHICK'N** for "chicken sandwich," registered on the Principal Register May 26, 1998.

(j) Registration No. 2,335,590 – **WHATABURGER** for "restaurant services," registered on the Principal Register March 28, 2000.

(k) Registration No. 2,372,372 – **WHATAKIDS** for "clothing for children, namely, shirts, polo shirts, t-shirts, dresses, overalls, onesies, baseball caps and hats," registered on the Principal Register August 1, 2000.

(l) Registration No. 2,409,945 – **WHATACHILL** for "frozen flavored fruit drinks offered for sale exclusively through applicant's restaurants," registered on the Principal Register December 5, 2000.

(m) Registration No. 2,418,380 – **WHATAGUY** for "restaurant services," registered on the Principal Register January 2, 2000.

(n) Registration No. 2,432,191 – **WHATAKIDS** for "restaurant services," registered on the Principal Register February 27, 2001.

(o) Registration No. 2,519,854 – **WHATACOMIX** for "comic books and children's activity books," registered on the Principal Register December 18, 2001.

(p) Registration No. 2,534,527 – **WHATAPLACE! WHATATASTE!** for "restaurant services," registered on the Principal Register January 29, 2002.

(q) Registration No. 2,757,109 – **WHATABURGER** for "charitable fundraising services," registered on the Principal Register August 26, 2003.

(r) Registration No. 2,846,139 – **WHATABLENDERS** for "milk shake drinks, bases for milk shake drinks and candy flavored toppings therefor, registered on the Principal Register May 25, 2004.

8. Opposer's Reg. Nos. 652,137; 891,082: 1,011,927; 1,011,928; 1,014,196; 1,116,918; 1,206,344; 2,150,703; and 2,160,285 are incontestable as to the products and services listed therein and are conclusive evidence of the validity of the registered marks, Opposer's ownership thereof, and of Opposer's exclusive right to use the marks in commerce on or in connection with the products and services identified in the registrations.

9. By reason of Opposer's extensive, exclusive and continuous use of its WHATABURGER and WHATA marks, Opposer has become known and recognized as the owner of the aforesaid marks.

10. On information and belief, Applicant has adopted and is using the designation THE "WOW!...WHAT A SUB!!" BOYZ SUBS & STEAKS & Design in connection with restaurant and take-out food services, the services identified in the opposed application.

11. Some of Applicant's services as identified in its opposed application are identical to the services offered to the public by Opposer under its WHATABURGER and various WHATA marks and other products and services of the parties are closely related in law.

12. Applicant's mark THE "WOW!...WHAT A SUB!!" BOYZ SUBS & STEAKS & Design so resembles Opposer's WHATABURGER and WHATA marks in terms of appearance,

sound, connotation and commercial impression as to be likely, when applied to the food services identified in the opposed application, to cause confusion and mistake and to deceive.

13. Applicant's proposed mark is confusingly similar to Opposer's WHATABURGER and family of WHATA marks so that registration of Applicant's mark would be inconsistent with and damaging to Opposer's exclusive rights in and to its registered marks in connection with the products and services with which they are used.

14. Opposer will be damaged by registration of Applicant's proposed designation.

WHEREFORE, Opposer prays that its opposition be sustained and that Applicant's proposed mark be denied registration.

Opposer hereby authorizes the filing fee of THREE HUNDRED DOLLARS ($300.00) and any additional charges necessary to institute this proceeding to be debited to the deposit account of Wiley Rein & Fielding, Account No. 501129.

This opposition is being filed by the undersigned attorneys at law, duly authorized to represent Opposer in this proceeding, pursuant to Trademark Rule 2.101(b).

Respectfully submitted,

WHATAPARTNERSHIP, L.P.

By: _____

J. Timothy Hobbs
Christopher Kelly
Wiley Rein & Fielding LLP
1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000

Attorneys for WhataPartnership, L.P.

Dated: August 5, 2004

EXHBIT A

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 652,137

Registered Sep. 24, 1957

Renewal Term Begins Sep. 24, 1997

TRADEMARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY ASSIGNMENT, CHANGE OF NAME, CHANGE OF NAME, ASSIGNMENT AND MERGER WITH DOBSON, HARMON A. (UNITED STATES CITIZEN) CORPUS CHRISTIE, TX

FOR: HAMBURGER SANDWICH, IN CLASS 46 (INT. CL. 30).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

SER. NO. 71-667,794, FILED 6-7-1954.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on July 29, 1997.

Int. Cl.: 42

Prior U.S. Cl.: 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 891,082

Registered May 12, 1970

Renewal Approved Feb. 15, 1990

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, ASSIGNEE BY ASSIGNMENT, MERGER AND CHANGES OF NAME FROM DOBSON, GRACE W. (UNITED STATES CITIZEN), DOING BUSINESS AS WHATABURGER DRIVE INNS, CORPUS CHRISTI, TX

OWNER OF U.S. REG. NO. 652,137.

FOR: RESTAURANT SERVICES AND DRIVE IN RESTAURANT SERVICES, IN CLASS 100 (INT. CL. 42).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

SER. NO. 72-291,496, FILED 2-20-1968.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 27, 1990.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cls.: 29, 30, 32 and 42

Prior U.S. Cls.: 45, 46 and 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 1,011,927

Registered May 27, 1975

Renewal Term Begins May 27, 1995

TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY CHANGE OF NAME, ASSIGNMENT AND MERGER WITH WHATABURGER, INC. (TEXAS CORPORATION) CORPUS CHRISTI, TX

THE DRAWING IS LINED FOR THE COLORS ORANGE AND BROWN, BUT COLOR IS NOT CLAIMED AS A FEATURE OF THE MARK.

FOR: SOFT DRINKS, IN CLASS 45 (INT. CL. 32).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

FOR: HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, [POTATO CHIPS, CORN CHIPS,] FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANKFURTER SANDWICHES, IN CLASS 46 (INT. CLS. 29 AND 30).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

FOR: RESTAURANT AND DRIVE-IN RESTAURANT SERVICES, IN CLASS 100 (INT. CL. 42).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

SER. NO. 72-442,464, FILED 11-29-1972.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on July 2, 1996.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cls.: 29, 30, 32 and 42

Prior U.S. Cls.: 45, 46 and 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 1,011,928

Registered May 27, 1975

Renewal Term Begins May 27, 1995

TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY CHANGE OF NAME, ASSIGNMENT AND MERGER WITH LUTZ, GRACE DOBSON (UNITED STATES CITIZEN), AKA GRACE W. DOBSON, CORPUS CHRISTI, TX

THE DRAWING IS LINED FOR THE COLORS ORANGE AND BROWN, BUT COLOR IS NOT CLAIMED AS A FEATURE OF THE MARK.

FOR: SOFT DRINKS, IN CLASS 45 (INT. CL. 32).

FIRST USE 7-18-1972; IN COMMERCE 7-28-1972.

FOR: HAMBURGERS, CHEESEBURGERS, FRENCH FRIED POTATOES, [POTATO CHIPS, CORN CHIPS,] FRIED PIES, ONION RINGS, MALT AND SHAKE BEVERAGES, AND FRANK-

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 5, 1996.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,014,196

Registered June 24, 1975

10 Year Renewal

Renewal Term Begins June 24, 1995

TRADEMARK
PRINCIPAL REGISTER

WHATABURGER JR.

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, BY CHANGE OF NAME AND ASSIGNMENT FROM LUTZ, GRACE DOBSON (UNITED STATES CITIZEN) CORPUS CHRISTI, TX

OWNER OF U.S. REG. NOS. 652,137, 891,082 AND 963,811.

FOR: PREPARED HAMBURGER SANDWICH FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 29 (U.S. CL. 46).

FIRST USE 4-1-1973; IN COMMERCE 8-29-1973.

SER. NO. 73-007,283, FILED 11-26-1973.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Aug. 8, 1995.

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 1,116,918

United States Patent and Trademark Office

Registered Apr. 24, 1979

10 Year Renewal

Renewal Term Begins Apr. 24, 1999

TRADEMARK
PRINCIPAL REGISTER

WHATAMEAL

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981, BY MERGER WITH WHATABURGER SYSTEMS, INC. (TEXAS CORPORATION) CORPUS CHRISTI, TX

FOR: PREPARED MEAL CONSISTING OF A HAMBURGER SANDWICH, FRENCH FRIES AND A BEVERAGE FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 30 (U.S. CL. 46).

FIRST USE 7-1-1975; IN COMMERCE 7-1-1975.

SER. NO. 73-155,977, FILED 1-20-1978.

In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on Mar. 30, 1999.

Int. Cls.: 29 and 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,206,344
Registered Aug. 24, 1982

TRADEMARK
Principal Register

WHATACATCH

Whataburger Systems, Inc. (Texas corporation)
3104 S. Alameda
Corpus Christi, Tex. 78404

For: BREADED FISH FILLETS SUITABLE FOR FISH SANDWICHES, in CLASS 29 (U.S. Cl. 46).

First use Oct. 14, 1978; in commerce Apr. 1, 1979.

For: PREPARED FISH SANDWICH FOR CONSUMPTION ON OR OFF THE PREMISES, in CLASS 30 (U.S. Cl. 46).

First use Oct. 14, 1978; in commerce Apr. 1, 1979.

Owner of U.S. Reg. Nos. 652,137, 1,011,928 and others.

Ser. No. 226,971, filed Aug. 10, 1979.

JERRY L. PRICE, Primary Examiner

ROBERT C. CLARK JR., Examiner

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,150,703

United States Patent and Trademark Office

Registered Apr. 14, 1998

SERVICE MARK
PRINCIPAL REGISTER

WHATASIZE IT!

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES FEATURING A PREPARED MEAL CONTAINING FRENCH FRIES AND A SOFT DRINK FOR CONSUMPTION ON OR OFF THE PREMISES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 7-4-1994; IN COMMERCE 7-4-1994.

OWNER OF U.S. REG. NOS. 652,137, 1,116,918 AND OTHERS.

SER. NO. 75-261,843, FILED 3-24-1997.

ALICE SUE CARRUTHERS, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,160,285

Registered May 26, 1998

TRADEMARK
PRINCIPAL REGISTER

WHATACHICK'N

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: CHICKEN SANDWICH, IN CLASS 30 (U.S. CL. 46).

FIRST USE 1-1-1984; IN COMMERCE 1-1-1984.

OWNER OF U.S. REG. NOS. 652,137, 1,116,918 AND OTHERS.

SER. NO. 75-261,844, FILED 3-24-1997.

SUSAN LESLIE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,335,590

United States Patent and Trademark Office

Registered Mar. 28, 2000

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 1-1-1950; IN COMMERCE 2-10-1953.

OWNER OF U.S. REG. NOS. 1,011,927, 2,160,285 AND OTHERS.

SER. NO. 75-674,147, FILED 4-5-1999.

DAVID ETTINGER, EXAMINING ATTORNEY

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

Reg. No. 2,372,372

United States Patent and Trademark Office

Registered Aug. 1, 2000

TRADEMARK
PRINCIPAL REGISTER

WHATAKIDS

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: CLOTHING FOR CHILDREN, NAMELY, SHIRTS, POLO SHIRTS, T-SHIRTS, DRESSES, OVERALLS, ONESIES, BASEBALL CAPS AND HATS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 11-0-1998; IN COMMERCE 2-15-1999.

SER. NO. 75-654,525, FILED 3-5-1999.

SUSAN LESLIE DUBOIS, EXAMINING ATTORNEY

Int. Cl.: 32

Prior U.S. Cls.: 45, 46 and 48

Reg. No. 2,409,945

United States Patent and Trademark Office

Registered Dec. 5, 2000

TRADEMARK
PRINCIPAL REGISTER

WHATACHILL

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: FROZEN FLAVORED FRUIT DRINKS OFFERED FOR SALE EXCLUSIVELY THROUGH APPLICANT'S RESTAURANTS, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 10-0-1997; IN COMMERCE 10-0-1997.

SER. NO. 75-621,986, FILED 1-15-1999.

MITCHELL FRONT, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,418,380

United States Patent and Trademark Office

Registered Jan. 2, 2001

SERVICE MARK
PRINCIPAL REGISTER

WHATAGUY

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

SN 75-698,642, FILED 5-6-1999.

KATHERINE STOIDES, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,432,191

United States Patent and Trademark Office

Registered Feb. 27, 2001

SERVICE MARK
PRINCIPAL REGISTER

WHATAKIDS

WHATABURGER, INC. (TEXAS CORPORATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 784112981

FOR: RESTAURANT SERVICES, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 4-1-1999; IN COMMERCE 4-1-1999.

SN 75-647,561, FILED 2-22-1999.

MITCHELL FRONT, EXAMINING ATTORNEY

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

WHATABURGER PARTNERSHIP Opposer, v. SARKIS AVAKIAN Applicant.	Mark: WHATTA WING! Serial No.: 77/494,179 Published: 11/04/2008 Opposition No. 91189023

APPLICANT'S FIRST NOTICE OF RELIANCE

Applicant Sarkis Avakian ("Applicant"), pursuant to Trademark Rules of Practice 2.120 and 2.122 (37 C.F.R. § 2.120 and § 2.122), hereby relies upon the following evidence.

Notices of Opposition and Petitions for Cancellation

1. Pursuant to 37 C.F.R. § 2.122(e), Applicant hereby introduces into evidence the attached notices of opposition and petitions for cancellation, brought by Opposer against marks which incorporated any spelling or version of a "WHAT A" formative phrase, as well as Board orders terminating those proceedings. These official records, obtained from the Patent and Trademark Office, are considered self-authenticating, and as such, require no extrinsic evidence of authenticity as a condition to admissibility.

These materials are relevant to show that although Whataburger has initiated frequent and numerous opposition or cancellation proceedings against a diverse swath of marks sharing a reference to this common "WHAT A" idiom, there has been no TTAB decision on the merits (excluding defaults) which ordered the rejection of these applications or registrations based on

Whataburger's preexisting marks. Each of the proceedings terminated with default, abandonment, or amendment.

- Applicant introduces as Exhibit A1 the Notice of Opposition and subsequent filings and Board order for *Whatapartnership L.P. v. Agroamerica Corporation* (Proceeding No. 91179671, regarding the mark **WATTAFRUIT & Design**).

- Applicant introduces as Exhibit A2 the Notice of Opposition and subsequent filings and Board order for *Whatapartnership L.P. v. Com-Pac International, Inc.* (Proceeding No. 91175612, regarding the mark **WHATABAG**).

- Applicant introduces as Exhibit A3 the Notice of Opposition and subsequent filings and Board order for *Whatapartnership L.P. v. Halbro Inc.* (Proceeding No. 91166232, regarding the mark **WOW!... WHAT A SUB!! BOYZ SUBS AND STEAKS & Design**).

- Applicant introduces as Exhibit A4 the Notice of Opposition and subsequent filings and Board order for *Whatapartnership L.P. v. Christine J. Mahaney* (Proceeding No. 91186046, regarding the mark **WHATADOG**).

- Applicant introduces as Exhibit A5 the Notice of Opposition and subsequent filings and Board order for *Whatapartnership L.P. v. R.A. "Skeet" Noret* (Proceeding No. 91163686, regarding the mark **CHIHUAHUA WHAT A SANDWICH & Design**).

- Applicant introduces as Exhibit A6 the Notice of Opposition and subsequent filings and Board order for *Whatapartnership L.P. v. SCJ Enterprises, Inc.* (Proceeding No. 91161455, regarding the mark **WHATTA JERK X-TREME BEEF JERKY**).

- Applicant introduces as Exhibit A7 the Notice of Opposition and subsequent filings and Board order for *Whatapartnership L.P. v. TBC Investments Inc.* (Proceeding No. 91183490, regarding the mark **WHATTACAKE & Design**).

- Applicant introduces as Exhibit A8 the Notice of Opposition and subsequent filings and Board order for *Whatapartnership L.P. v. W.A.B. Bakery Franchising Ltd.* (Proceeding No. 91161129, regarding the mark **WHAT A BAGEL & Design**).

- Applicant introduces as Exhibit A9 the Trademark Trial and Appeal Board record pertaining to *Whatapartnership L.P. v. W.H. Thompson and Son* (Proceeding No. 91060325, regarding the mark **WHATAMELON & Design**).

- Applicant introduces as Exhibit A10 the Petition to Cancel and subsequent Board order for *Whatapartnership L.P. v. Agroamerica Corporation* (Proceeding No. 92050094, regarding the mark **WATTA**).

- Applicant introduces as Exhibit A11 the Petition to Cancel and subsequent filings for *Whatapartnership L.P. v. Gielow Pickles, Inc.* (Proceeding No. 92050093, regarding the mark **WHAT A PICKLE**).

- Applicant introduces as Exhibit A12 the Petition to Cancel and subsequent Board order for *Whatapartnership L.P. v. Suite One Staffing Group, Inc.* (Proceeding No. 92044859, regarding the mark **WHAT-A-RACK**).

Opposer's Responses to Interrogatories

2. Pursuant to 37 C.F.R. § 2.120(j)(5), Applicant hereby introduces into evidence, as Exhibit B, an excerpted portion of Opposer's Answers to Applicant's First Set of Interrogatories. Applicant introduces Opposer's Answers to Applicant's First Set of Interrogatories Nos. 3, 4, 12, 13, and 18.

Interrogatory	**Relevance**
Response 3	Shows that Opposer and Applicant's channels of trade are not at all similar

Interrogatory	Relevance
Response 4	Shows that the goods and services marketed by Opposer and Applicant are not identical
Response 12	Shows that Opposer has initiated numerous proceedings to oppose or cancel marks registered by others but has not ever succeeded on the merits of these proceedings
Response 13	Shows that no actual or likely confusion exists between the marks used by Whatta Wing! and Whataburger
Response 18	Shows that Opposer and Applicant's channels of trade and geographic scopes are not at all similar

Transcript of Deposition of Sarkis Avakian

3. Pursuant to 37 C.F.R. § 2.120(j)(4), Applicant hereby introduces into evidence, as Exhibit C, excerpted portions of the transcript of the discovery deposition of Sarkis Avakian, taken under oath on June 25, 2010, together with exhibits referred to therein.

Deposition Page: Line Nos.; Exhibits	Relevance
42:7-18, 103:18 – 105:9, 107:4 – 108:18	Shows that Whatta Wing! developed its mark independently and without any knowledge of Whataburger's marks
132:21 – 137:12	Shows that the products marketed and sold by Opposer are not identical to those sold or marketed by Applicant
168:22 – 169:12	Shows that Opposer has no basis on which to allege that the mark applied for by Applicant is likely to cause confusion, or to cause mistake or to deceive

Applicant's Responses to Requests for Admission

4. Pursuant to 37 C.F.R. § 2.120(j)(5), Applicant hereby introduces into evidence, as Exhibit D, an excerpted portion of Applicant's Answers to Opposer's First Set of Requests for

Admission. Applicant introduces Applicant's Answers to Opposer's First Set of Requests for Admission Nos. 4, 5, 7, 10, 11, 20, 26, 33, 35, 36, 40, and 41.

Request for Admission	**Relevance**
Responses 4 and 5	Shows that the marks used by Applicant and Opposer are not identical in appearance, sound or overall impression
Responses 7, 10, and 11	Shows that the services and products offered by Applicant and Opposer are not identical
Response 20	Shows that the marks used by Applicant and Opposer are not identical in appearance, sound or overall impression
Response 26	Shows that no likely or actual confusion exists among target consumers
Responses 33, 35, and 36	Shows that Applicant developed its marks independently and with no knowledge of Opposer's marks
Responses 40 and 41	Shows that to Applicant's knowledge there is no likely confusion or damage to Opposer's marks due to the use of Applicant's marks

Applicant's Responses to Interrogatories

5. Pursuant to 37 C.F.R. § 2.120(j)(5), Applicant hereby introduces into evidence, as Exhibit E, an excerpted portion of Applicant's Answers to Opposer's First Set of Interrogatories. Applicant introduces Applicant's Answer No. 7, which seeks evidence of actual confusion, which is relevant to the issue of likelihood of confusion.

Third-party User Website Printouts

6. Pursuant to 37 C.F.R. § 2.122(e), Applicant hereby introduces into evidence the following internet printouts, from web sites displaying "WHAT A" formative marks. These

documents are relevant to the issue of likelihood of confusion, in particular the number and nature of similar marks in use by third parties. These publicly available documents are considered self-authenticating, and each document features the URL of the page and the date it was accessed. As such, they require no extrinsic evidence of authenticity as a condition to admissibility.

- Applicant introduces as Exhibit F1 a printout from a web site showing use in commerce of the mark **WHAT A DELI**, accessed on March 3, 2011 at the URL http://www.whatadeli.com.

- Applicant introduces as Exhibit F2 a printout from a web site showing use in commerce of the mark **WHAT ABOUT A BAGEL**, accessed on March 3, 2011 at the URL http://www.whataboutabagelnj.com.

- Applicant introduces as Exhibit F3 a printout from a web site showing use in commerce of the tagline trademark "**WHAT A PICKLE**," accessed on March 3, 2011 at the URL http://gielowpickles.com.

- Applicant introduces as Exhibit F4 a printout from a web site showing use in commerce of the mark **WHADDAPITA**, accessed on March 3, 2011 at the URL http://whaddapita.com.

- Applicant introduces as Exhibit F5 a printout from a web site showing use in commerce of the mark **WOT-A-DOG**, accessed on March 3, 2011 at the URL http://www.wot-a-dog.com.

- Applicant introduces as Exhibit F6 a printout from a web site showing use in commerce of the mark **WHATTA LOTTA PIZZA**, accessed on March 3, 2011 at the URL http://www.4alotta.com.

- Applicant introduces as Exhibit F7 a printout from a web site showing use in commerce of the mark **WHAT A GRIND COFFEE HOUSE**, accessed on April 1, 2011 at the URL http://www.whatagrindcafe.com.

- Applicant introduces as Exhibit F8 a printout from a web site showing use in commerce of the mark **WHAT A DISH CAFE**, accessed on March 3, 2011 at the URL http://whatadishoc.com.

- Applicant introduces as Exhibit F9 a printout from a web site showing use in commerce of the mark **WHAT A DISH**, accessed on March 3, 2011 at the URL https://www.qpfans.com/dish.

- Applicant introduces as Exhibit F10 a printout from a web site showing use in commerce of the mark **AH WHATTA BOUT MIMI**, accessed on March 3, 2011 at the URL http://www.whattaboutmimi.bluedomino.com.

- Applicant introduces as Exhibit F11 a printout from a web site showing use in commerce of the mark **WHAT A PARTY**, accessed on March 3, 2011 at the URL http://www.whataparty.com.

- Applicant introduces as Exhibit F12 a printout from a web site showing use in commerce of the mark **WHAT-A-BLAST**, accessed on March 3, 2011 at the URL www.whatablastlasertag.com.

- Applicant introduces as Exhibit F13 a printout from a web site showing use in commerce of the mark **WHATTA BLAST PAINTING & PRESSURE WASHING**, accessed on March 3, 2011 at the URL www.whattablast.net.

- Applicant introduces as Exhibit F14 a printout from a web site showing use in commerce of the mark **WHATTA BLAST**, accessed on March 3, 2011 at the URL http://www.whattablast.com.

- Applicant introduces as Exhibit F15 a printout from a web site showing use in commerce of the mark **WHATTA CROCK**, accessed on March 3, 2011 at the URL http://stores.whattacrock.com/StoreFront.bok.

- Applicant introduces as Exhibit F16 a printout from a web site showing use in commerce of the mark **WHAT A CROCK**, accessed on March 3, 2011 at the URL http://whatacrock.com.

- Applicant introduces as Exhibit F17 a printout from a web site showing use in commerce of the mark **W.B. MASON'S WHATTA BARGAIN!**, accessed on March 3, 2011 at the URL www.wbwhattabargain.com.

- Applicant introduces as Exhibit F18 a printout from a web site showing use in commerce of the mark **WATTABIKE SHOP**, accessed on March 3, 2011 at the URL www.wattabike.com.

- Applicant introduces as Exhibit F19 a printout from a web site showing use in commerce of the mark **WHAT A COUNTRY**, accessed on March 3, 2011 at the URL http://whatacountry.com.

- Applicant introduces as Exhibit F20 a printout from a web site showing use in commerce of the mark **WHAT A GIRL WANTS JEWELRY**, accessed on March 3, 2011 at the URL http://whatagirlwantsjewelry.com.

- Applicant introduces as Exhibit F21 a printout from a web site showing use in commerce of the mark **WHAT A WEDDING!**, accessed on March 3, 2011 at the URL www.whataweddingandevents.com.

- Applicant introduces as Exhibit F22 a printout from a web site showing use in commerce of the mark **WHAT A WOMAN WANTS SHOW**, accessed on March 3, 2011 at the URL www.whatawomanwantsshow.com.

- Applicant introduces as Exhibit F23 a printout from a web site showing use in commerce of the mark **WHATA DEAL TRAVEL**, accessed on March 3, 2011 at the URL www.whatadealtravel.com.

- Applicant introduces as Exhibit F24 a printout from a web site showing use in commerce of the mark **WHAT A LOGO**, accessed on March 3, 2011 at the URL www.whatalogo.com.

- Applicant introduces as Exhibit F25 a printout from a web site showing use in commerce of the mark **WHATAPAIR**, accessed on March 3, 2011 at the URL www.whatapair.com.

- Applicant introduces as Exhibit F26 a printout from a web site showing use in commerce of the mark **WHATTA CATCH**, accessed on March 3, 2011 at the URL www.whattacatch.com.

- Applicant introduces as Exhibit F27 a printout from a web site showing use in commerce of the mark **WHATTA CHARACTER**, accessed on March 3, 2011 at the URL http://www.whattacharacter.com.

- Applicant introduces as Exhibit F28 a printout from a web site showing use in commerce of the mark **WHAT A CHARACTER!**, accessed on March 3, 2011 at the URL http://whatacharacter.com.

Trademark Prosecution Documents

7. Pursuant to 37 C.F.R. § 2.122(e), Applicant hereby introduces into evidence the attached prosecution documents for third party marks which were approved for publication or registered for use in connection with food and/or beverage-related goods or services, in which the terms *what* and *wat* were used by the Examiner in his/her search of Office Records, such that WHATABURGER and its marks would have been included in the search results and considered by the Examiner in his/her section 2(d) analysis. These official records, obtained from the Patent and Trademark Office, are considered self-authenticating, and as such, require no extrinsic evidence of authenticity as a condition to admissibility. They are relevant to the issue of likelihood of confusion.

- Applicant introduces as Exhibit G1 a TARR printout, Trademark Snap Shot and search notes for the mark **FRANCO'S WHATTAPIZZA & Design**, by applicant Franco's Pizza, LLC, Serial No. 85178487.

- Applicant introduces as Exhibit G2 a TARR printout, Principal Register listing, Notice of Publication and search notes for the mark **WHAT A DISH**, by applicant Cheryl Rejewsky, Serial No. 76527826.

- Applicant introduces as Exhibit G3 a TARR printout, Principal Register listing, Notice of Publication, and search notes for the mark **WHAT A DISH & Design**, by applicant Cheryl Rejewsky, Serial No. 76527828.

- Applicant introduces as Exhibit G4 a TARR printout, Trademark Snap Shot and search notes for the mark **WHAT A PIZZA WHAT A PRICE & Design**, by applicant What a Pizza What a Price Franchising LLC, Serial No. 85018316.

- Applicant introduces as Exhibit G5 a TARR printout, Notice of Acceptance of § 8 Declaration, Principal Register listing, Notice of Publication, and search notes for the mark **WHAT A LOT A PIZZA & Design**, by applicant Wala Industries, Inc, Serial No. 76383004.

- Applicant introduces as Exhibit G6 a TARR printout, Notice of Publication and search notes for the mark **WHATTACAKE**, by applicant TBC Investments Inc., Serial No. 77286324.

- Applicant introduces as Exhibit G7 a TARR printout, Principal Register listing, Notice of Allowance, Notice of Publication and search notes for the mark **WATTA**, by applicant Agroamerica Corporation, Serial No. 77013481.

- Applicant introduces as Exhibit G8 a TARR printout, Principal Register listing, Notice of Allowance, Notice of Publication and search notes for the mark **WATTABANANA**, by applicant Agroamerica Corporation, Serial No. 77217716.

- Applicant introduces as Exhibit G9 a TARR printout, Principal Register listing, Notice of Allowance, Notice of Publication and search notes for the mark **WATTALITTLEBANANA**, by applicant Agroamerica Corporation, Serial No. 77242320.

- Applicant introduces as Exhibit G10 a TARR printout, Principal Register listing, Notice of Allowance, Notice of Publication and search notes for the mark **WATTAPINEAPPLE**, by applicant Agroamerica Corporation, Serial No. 77217729.

- Applicant introduces as Exhibit G11 a TARR printout, Principal Register listing, Notice of Allowance, Notice of Publication and search notes for the mark **WATTARAMBUTAN**, by applicant Agroamerica Corporation, Serial No. 77242240.

- Applicant introduces as Exhibit G12 a TARR printout, Notice of Allowance, Notice of Publication and search notes for the mark **WATTAFRUIT** & Design, by applicant Agroamerica Corporation, Serial No. 77057347.

- Applicant introduces as Exhibit G13 a TARR printout, Notice of Allowance, Notice of Publication and search notes for the mark **WATTALYCHI**, by applicant Agroamerica Corporation, Serial No. 77242273.

- Applicant introduces as Exhibit G14 a TARR printout, Notice of Allowance, Notice of Publication and search notes for the mark **WATTAMANGOSTIN**, by applicant Agroamerica Corporation, Serial No. 77242304.

- Applicant introduces as Exhibit G15 a TARR printout, Notice of Allowance, Notice of Publication and search notes for the mark **WATTAPLANTAIN**, by applicant Agroamerica Corporation, Serial No. 77242211.

- Applicant introduces as Exhibit G16 a TARR printout, Notice of Allowance, Notice of Publication and search notes for the mark **WHAT A PICKLE!**, by applicant Gielow Pickles, Inc., Serial No. 78554040.

- Applicant introduces as Exhibit G17 a TARR printout, Notice of Publication and search notes for the mark **WHAT-A-NUT! & Design**, by applicant Linda Panikowski d/b/a What-A-Nut!, Serial No. 85003764.

- Applicant introduces as Exhibit G18 a TARR printout, Trademark Snap Shot and search notes for the mark **WHAT A PEACH**, by applicant Kahala Franchising, L.L.C, Serial No. 85030247.

- Applicant introduces as Exhibit G19 a TARR printout, Notice of Allowance, Notice of Publication and search notes for the mark **WHATAYA NUTS**, by applicant Howard Sher, Serial No. 77726903.

- Applicant introduces as Exhibit G20 a TARR printout and Principal Register listing for the mark **WHAT A PIZZA**, by applicant Bernatello's Pizza, Inc., Serial No. 7509972.

- Applicant introduces as Exhibit G21 a TARR printout and Principal Register listing for the mark **WHAT A PIZZA! BERNATELLO'S PIZZA & Design**, by applicant Bernatello's Pizza, Inc., Serial No. 75099453.

- Applicant introduces as Exhibit G22 a TARR printout and Principal Register listing for the mark **WOW! WHAT A PIZZA!**, by applicant Bernatello's Pizza, Serial No. 75093719.

Trademark Application and Registration Retrieval (TARR) Documents

8. Pursuant to 37 C.F.R. § 2.122(e), Applicant hereby introduces into evidence the attached Trademark Application and Registration Retrieval (TARR) system printouts for third party registrations for marks using the "WHAT A" formative, irrespective of goods or services. These official records, obtained from the Patent and Trademark Office, are considered self-

authenticating, and as such, require no extrinsic evidence of authenticity as a condition to admissibility. They are relevant to the issue of likelihood of confusion.

- Applicant introduces as Exhibit H1 a TARR printout for the mark **WHAT-A**, issued to registrant Daniel Fasano, U.S. Reg. No. 2453469, issued May 22, 2001.

- Applicant introduces as Exhibit H2 a TARR printout for the mark **WHATABAG**, issued to registrant Com-Pac International, Inc., U.S. Reg. No. 3369208, issued January 15, 2008.

- Applicant introduces as Exhibit H3 a TARR printout for the mark **WHATABUBBLE**, issued to registrant Extreme Bubbles, Inc., U.S. Reg. No. 3920767, issued February 15, 2011.

- Applicant introduces as Exhibit H4 a TARR printout for the mark **WHAT-A-CHAIR**, issued to registrant Coastal Sales Associates, Inc., U.S. Reg. No. 2216239, issued January 5, 1999.

- Applicant introduces as Exhibit H5 a TARR printout for the mark **WHATAGRIP**, issued to registrant Unique Sports Products, Inc., U.S. Reg. No. 3388669, issued February 26, 2008.

- Applicant introduces as Exhibit H6 a TARR printout for the mark **WHAT-A-LIGHT**, issued to registrant Thomas Francis Wise, U.S. Reg. No. 3723155, issued December 18, 2009.

- Applicant introduces as Exhibit H7 a TARR printout for the mark **WHAT-A-MELON**, issued to registrant Snapple Beverage Corp., U.S. Reg. No. 3223746, issued April 3, 2007.

- Applicant introduces as Exhibit H8 a TARR printout for the mark **WHAT-A-MELON**, issued to registrant Tony Wayne Anderson, U.S. Reg. No. 3559579, issued January 13, 2009.

- Applicant introduces as Exhibit H9 a TARR printout for the mark **WHAT-A-MELON**, issued to registrant Australian Gold, LLC., U.S. Reg. No. 3815322, issued July 6, 2010.

- Applicant introduces as Exhibit H10 a TARR printout for the mark **WHATAP**, issued to registrant Bob Newton, U.S. Reg. No. 3163766, issued October 24, 2006.

- Applicant introduces as Exhibit H11 a TARR printout for the mark **WHATAP**, issued to registrant Bob Newton, U.S. Reg. No. 3262318, issued July 10, 2007.

- Applicant introduces as Exhibit H12 a TARR printout for the mark **WHATAQUEEN**, issued to registrant Brandon Hibbs, U.S. Reg. No. 3801662, issued June 15, 2010.

- Applicant introduces as Exhibit H13 a TARR printout for the mark **WHATAQUOTE**, issued to registrant Anita Womack Beaty, U.S. Reg. No. 3572174, issued February 10, 2009.

- Applicant introduces as Exhibit H14 a TARR printout for the mark **WHATTA YA THINK**, issued to registrant Natural Wellness Corporation Ltd., U.S. Reg. No. 76686568, issued April 27, 2010.

- Applicant introduces as Exhibit H15 a TARR printout for the mark **WHATTACROCK, INC. RICHLY SCENTED CUSTOM-MADE STONEWARE CROCK CANDLES**, issued to registrant Whattacrock, Inc., U.S. Reg. No. 2958559, issued May 31, 2005.

Newspaper publication

9. Pursuant to 37 C.F.R. § 2.122(e), Applicant hereby introduces as Exhibit I the February 11, 2011 edition of the Amador County (CA) *Ledger Dispatch* newspaper, which contains an advertisement at page 4 for What'a Beach Tans & Boutique. This document is relevant to the issue of likelihood of confusion. This publicly available document is considered self-authenticating, and as such, requires no extrinsic evidence of authenticity as a condition to admissibility.

Copies of Exhibits A1 – I are attached hereto. This First Notice of Reliance is being filed during Applicant's testimony period and forms a part of Applicant's evidence.

Respectfully submitted,

SARKIS AVAKIAN,

By his attorneys,

Dated: April 5, 2011

Sheryl Koval Garko /rnf

Mark S. Puzella
Robert M. O'Connell, Jr.
Sheryl Koval Garko
Goodwin Procter LLP
Exchange Place
Boston, Massachusetts 02109
(617) 570-1653

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing APPLICANT'S FIRST NOTICE OF RELIANCE upon Opposer's counsel of record on April 5, 2011 via electronic mail and via Federal Express, addressed as follows:

Christopher Kelly
Wiley Rein LLP
1776 K Street NW
Washington, DC 20006

Sheryl Koval Garko /rnf
Sheryl Koval Garko