

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

WE MAKE HAMBURGER SLICES BY THE MILLIONS. ONE AT A TIME

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12-01-2008

FOURTH GENERATION PICKLE PEOPLE

U.S. Patent & Trademark Mail Rept. Dt. #32

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.)

Express Mail label number EH 254479463 US
I hereby certify that this correspondence is being
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'Express Mail Post Office To Addressee' service in an
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Attn: TTAB -- NO FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451
Douglas Gielow 12/1/08

Douglas Gielow Date

Cancellation No. 92050093

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

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.

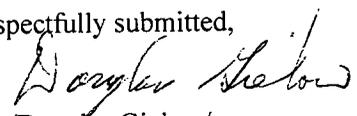
31. Petitioner is barred by the doctrine of acquiescence and has acquiesced for more than five decades or nearly 60 years.

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,

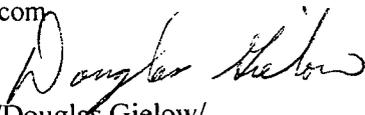
By: 
/Douglas Gielow/

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

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

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

*What a
Pickle*

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 ad-

vertising, 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.



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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

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[NEXT LIST](#) [FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)

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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"



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What a Pickle

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

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Serial Number: 71596022 Assignment Information Trademark Document Retrieval

Registration Number: 588866

Mark

The image shows the handwritten text "What a Pickle" in a cursive, black ink style. The words are written diagonally, with "What" above "a" and "Pickle" below "a".

(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

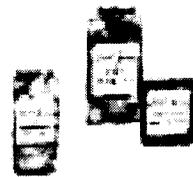
(NOT AVAILABLE)

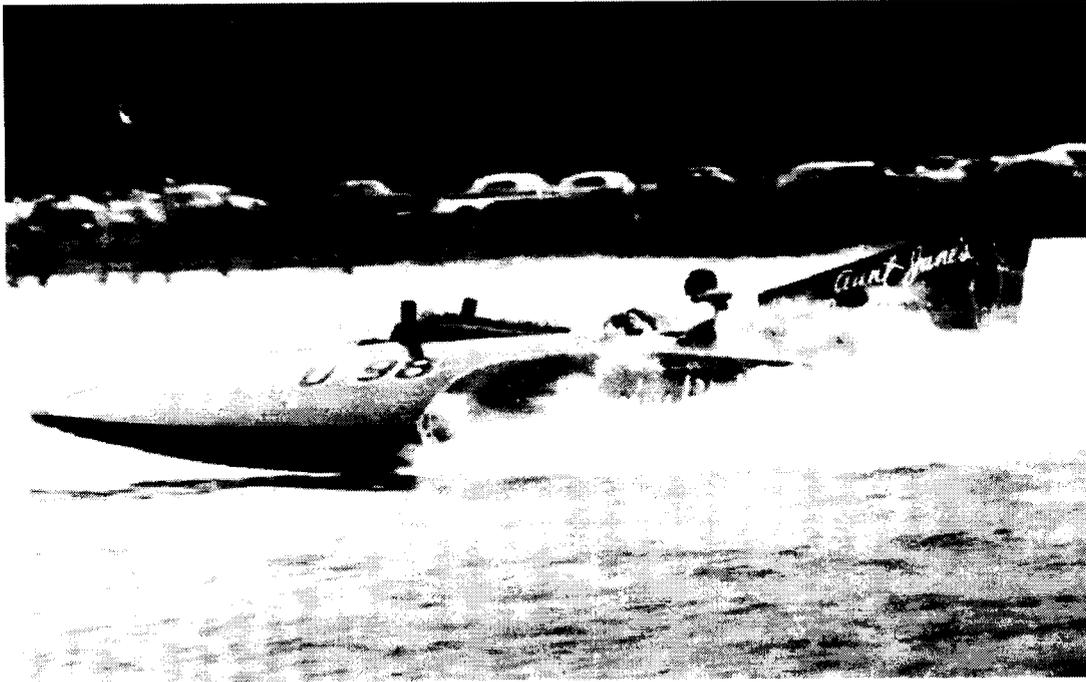
21570



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

*What a
Pickle*

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 ad-

vertising, 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.



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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

Entity Type: UNKNOWN

Citizenship: NONE

Assignee: AUNT JANE'S FOODS, INCORPORATED

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

Entity Type: CORPORATION

Citizenship: NEW JERSEY

Assignee: BORDEN COMPANY, THE

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

Entity Type: UNKNOWN

Citizenship: NONE

Assignee: BORDEN, INC.

Correspondent: BORDEN, INC.

350 MADISON AVE.

NEW YORK, NY 10017

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What a Pickle!

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

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Serial Number: 72120686 Assignment Information Trademark Document Retrieval

Registration Number: 783746

Mark

What a Pickle!

(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)

PRINCIPAL REGISTER
Trademark

Ser. No. 120,686, filed May 24, 1961

*What a
Pickle!*

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.

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)	FILED Michigan Department of Treasury MAY 1 1970
	(Date)	<i>Oliver Green</i> 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 Babcock Road Lexington Sanilac, Michigan.
(No.) (Street) (City) (Zone) (County)

Postoffice address of the first registered office is:
5601 Babcock Road Lexington, Michigan.
(No. and Street or P. O. Box) (City) (Zone)

ARTICLE IV.

The name of the first resident agent is R. Douglas Gielow

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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

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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



by Gielow Pickles, Inc.

Fourth Generation Pickle People
 Lexington, NY 14545
 609-419-5320

**REFRIGERATED
 DELI PICKLE**®



**KEEP REFRIGERATED
 CONTENTS: 1 SPEAR**

Nutrition Facts	
Serving Size 1 Speer (1.00 oz)	
Amount Per Speer	
Calories	0
Total Fat 1g	2%
Total Fat 1g	2%
Cholesterol 0mg	0%
Sodium 150mg	15%
Total Carbohydrate 1g	0%
Protein 0g	
Percent Daily Values are based on a diet of pickles.	

INGREDIENTS:
 CUCUMBERS, VINEGAR,
 SALT, SPICES, CALCIUM
 CHLORIDE, SUCROSE,
 SODIUM BICARBONATE, YELLOW 5,
 POLYSORBATE 80.

