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

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Applicant	Mighty Fine Burgers Fries Shakes
Applied for Mark	MF
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application of:

Mighty Fine Burgers Fries Shakes

Serial No.:

86/134,042

Filed:

December 3, 2013



Mark:

**APPEAL BRIEF OF APPLICANT**

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## **APPEAL BRIEF**

Mighty Fine Burgers Fries Shakes dba Mighty Fine (“Applicant”) is the owner of the mark MF and Design and application for federal trademark registration Serial No. 86/134,042 (“Applicant’s Mark”). This Appeal Brief is submitted under 37 C.F.R § 2.142 in support of Applicant’s request to the Trademark Trial and Appeal Board (the “Board”) to allow registration of Applicant’s Mark. Applicant respectfully requests the Board consider and reverse the Trademark Examining Attorney’s (the “Examining Attorney”) refusal of registration.

### **I. DESCRIPTION OF THE RECORD**

On December 3, 2013, Applicant (through its attorney) filed its Section 1(b) application for the federal registration of MF and Design in International Class 43 for use in connection with “*restaurant services*” (“Applicant’s Application”).

On March 19, 2014, the Examining Attorney issued an Office Action (the “First Office Action”) refusing registration of Applicant’s Mark under 15 U.S.C. § 1052(d) based upon a likelihood of confusion between Applicant’s Mark and U.S. Registration No. 4,085,163 for the standard character mark, MF, for use in connection with “*wine*” in International Class 33 (the “Cited Mark”). In addition, in the First Office Action, the Examining Attorney required that Applicant provide a complete description of Applicant’s Mark.

On September 19, 2014, Applicant responded to the First Office Action asserting that there was no likelihood of confusion between Applicant’s Mark and the Cited Mark and clarifying the differences between Applicant’s Mark and the Cited Mark. Applicant also provided a complete description of Applicant’s Mark.

On October 20, 2014, the Examining Attorney issued an Office Action marked “final” (the “Final Office Action”) stating she accepted Applicant’s amended description of Applicant’s Mark but she was

not persuaded by Applicant's arguments that the refusal under Section 2(d) should be withdrawn. Therefore, the refusal to register Applicant's Mark was made final by the Examining Attorney.

On May 18, 2015, a Notice of Abandonment was issued stating Applicant's Application was abandoned in full because a response to the Final Office Action was not received within the 6-month response period.

On July 16, 2015 Applicant revoked its previous attorney of record and named William Wiese as attorney of record.

On July 17, 2015 Applicant (through its attorney) filed a Petition to Revive Applicant's Application.

On July 17, 2015 Applicant (through its attorney) filed a Notice of Appeal with the Board appealing the refusal to register Applicant's Mark.

On July 22, 2015, a Notice of Revival was issued stating Applicant's Application had been revived.

On July 27, 2015, the Board issued a notice stating Applicant's Petition to Revive had been granted and the Notice of Appeal filed by Applicant was instituted.

This Appeal Brief is submitted in support of the Notice of Appeal.

## **II. STATEMENT OF THE ISSUES**

The Examining Attorney has erred in refusing to allow registration of Applicant's Mark because there is no likelihood of confusion between Applicant's Mark and the Cited Mark. The Examining Attorney's refusal is improper for at least the following reasons:

1. The Examining Attorney has improperly parsed Applicant's Mark when Applicant's Mark should be viewed as a whole;

2. The Examining Attorney has failed to weigh the relevant factors in reaching a conclusion that there is a likelihood of confusion between Applicant's Mark and the Cited Mark; and

3. The Examining Attorney has not provided sufficient evidence showing the goods and services at issue are related.

### **III. RECITATION OF THE FACTS**

Since at least as early as 2007, Applicant has operated casual restaurants under the name Mighty Fine Burgers Fries & Shakes (commonly known as "Mighty Fine"), offering mainly award winning hamburgers, crinkle cut french-fries and hand-dipped milkshakes. In fact, Applicant holds a Federal trademark registration for the mark MIGHTY FINE BURGERS FRIES SHAKES and Design covering "*restaurant services*" ("Applicant's Registration"). See Exhibit A. Then, on December 3, 2013, Applicant (through its attorney) filed a Section 1(b) trademark application for the federal registration of MF and Design in International Class 43 for use in connection with "*restaurant services*."

According to the registration for the Cited Mark, Madrona Property Company began selling wine under the MF mark in 2011. See Exhibit B.

### **IV. APPLICANT'S ARGUMENTS**

1. The Examining Attorney has improperly parsed Applicant's Mark when Applicant's Mark should be viewed as a whole.

In the Final Office Action, the Examining Attorney takes the position that "[a]lthough marks must be compared in their entities, the word portion generally may be the dominant and most significant feature of a mark ...." The Examining Attorney also states that "...greater weight is often given to the word portion of marks when determining whether marks are confusingly similar." The Examining Attorney then argues that "[t]he letters MF are given greater weight when comparing the marks...."

However, the law requires a mark to be considered in its entirety. *In re Chatham Int'l, Inc.* 380 F.3d 1340 (Fed. Cir. 2004). Applicant's Mark is MF *and Design*, in its entirety. The design of Applicant's Mark consists of the letters "MF" enclosed in a rectangle with a star above the letters. The Cited Mark is simply the letters MF with no design. In a unitary mark, "the elements are inseparable; creating a single and distinct commercial impression and the mark has a meaning of its own, independent of the meaning of the constituent elements between the applicant's mark and the registrant's mark." *Dena Corporation v. Beveledere International, Inc.*, 21 U.S.P.Q.2d 1047 (1991).

According to 3 J. THOMAS MCCARTHY ON TRADEMARKS § 23.41 (4th ed. 2000), "[c]onflicting composite marks are to be compared by looking at them as a whole rather than breaking the marks up into their component parts for comparison. This is the 'anti-dissection' rule. The rationale for the rule is that the commercial impression of a composite trademark on an ordinary prospective buyer is created by the mark as a whole, not by the component parts."

Thus, conflicting marks must be compared in their entireties. A mark should not be dissected or split up into its component parts and each part then compared with corresponding parts of the conflicting mark to determine a likelihood of confusion. It is the impression that the mark as a whole creates on the average reasonably prudent buyer and not the parts thereof that is important. *Estate of P.D. Beckwith, Inc., v. Commissioner of Patents*, 252 U.S. 538, 545-46 (1920). As the Supreme Court observed: "The commercial impression of a trademark is derived from it as a whole, not from the elements separated and considered in detail. For this reason, it should be considered in its entirety." *Id.*

The anti-dissection rule is based on common sense observation of customer behavior; the typical shopper does not retain all of the individual details of a composite mark in his or her mind, but retains only the overall, general impression created by the composite as a whole. It is the overall impression created by the mark from the ordinary shopper's cursory observation in the marketplace that will or will not lead to a likelihood of confusion, not the impression created from the meticulous comparison as

expressed in carefully weighed analysis in legal briefs. *Daddy's Junky Music Stores, Inc. v. Big Daddy's Family Music Ctr.*, 109 F.3d 275 (6<sup>th</sup> Cir. 1997).

The Examining Attorney could only reach her conclusion by dissecting and mutilating Applicant's Mark. This is precisely the kind of analysis that the Supreme Court and the Federal Circuit have cautioned against.

2. The Examining Attorney has failed to weigh the relevant factors in reaching a conclusion that there is a likelihood of confusion between Applicant's Mark and the Cited Mark. In the First and Final Office Actions, the Examining Attorney argued there is a likelihood of confusion between Applicant's Mark, for use in connection with "restaurant services," and the Cited Mark, for use in connection with "wine." Applicant asserts the Cited Mark should not present a bar to registration because there is no potential likelihood of confusion between the Cited Mark and Applicant's Mark under Section 2(d) of Trademark Act, 15 U.S.C. § 1052(d).

The United States Court of Customs and Patent Appeals in the seminal case on likelihood of confusion enumerated thirteen factors which, when of record, must be considered. *In re E.I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 U.S.P.Q. 563, 567 (C.C.P.A. 1973). From case to case, each element may play a dominant role. *DuPont*, 476 F.2d at 1362. Applicant addresses the dominant factors below.

A. Overall Appearance. In any likelihood of confusion analysis, one key, although not exclusive, factor is the similarities of the marks as to appearance, sound, connotation and commercial impression. Here, Applicant's Mark does not conflict with the Cited Mark within the meaning of Section 2(d). The Cited Mark is a standard character word mark, MF. Applicant's Mark is a design mark, MF



*and Design* (shown here).

However, it appears the Examining Attorney has found the marks are similar in appearance based solely upon a comparison of the text elements of Applicant's Mark and the Cited Mark. The Cited Mark consists solely of the letters "MF," and Applicant's Mark includes the letters "MF" within the design. However, Applicant argues that the Examining Attorney has not taken into account the numerous differences between the marks. Further, Applicant argues that confusion is not automatically likely if one user has a mark that contains, in part, the whole of another mark. *Conde Nast Pub., Inc. v. Miss Quality, Inc.*, 507 F.2d 1404 (C.C.P.A. 1975) ("COUNTRY VOGUES" not confusingly similar to "VOGUE"); *In re Merchandising Motivation, Inc.*, 184 U.S.P.Q. 364 (TTAB 1974) ("MMI MENSWEAR" not confusingly similar to "MEN'S WEAR"). When comparing marks for likelihood of confusion, each mark must be viewed as a whole and not broken into components. *In re Hearst Corporation*, 982 F.2d 493 (Fed. Cir. 1992). This is so because the public does not look at only a portion of the mark to determine the source of goods and services provided. See *In re National Data Corporation*, 753 F.2d 1056, 1060 (5th Cir. 1985).

When Applicant's Mark and the Cited Mark are compared in their entireties as required by *DuPont*, it is clear that there is no reasonable likelihood of confusion between the marks. In terms of overall appearance, Applicant's Mark, a design mark, is significantly different from the Cited Mark, a standard character word mark. Merely glancing at the marks at issue reveals their differences. The marks, considered in their entireties, are plainly visually distinct. Applicant's Mark consists of the letters "MF," and is a design mark, *MF and Design*, where the element "MF" is displayed in stylized letters surrounded by a rectangle and there is a star above the letters MF, shown here:



The Cited Mark is a word mark consisting of just the letters MF with no design or stylized element. The fact the Cited Mark is a word mark with no design and does not include any symbols, results in differences in appearance between Applicant's Mark and the Cited Mark.

These distinctions give Applicant's Mark an instantly apparent and significantly different overall appearance than that of the Cited Mark. It would be improper to ignore the design elements in Applicant's Mark when comparing it with the Cited Mark.

Furthermore, marks that are much closer in appearance and used with nearly identical goods and/or services have been found to be distinctive. *See, e.g., Wooster Brush Co. v. Prager Brush Co.*, 231 U.S.P.Q. 316 (TTAB 1987) (no likelihood of confusion between "POLY PRO" and "POLY FLO," both for paintbrushes); *Vitarroz Corporation v. Borden, Inc.*, 209 F.2d 960 (2<sup>nd</sup> Cir. 1981) ("BRAVO'S" for crackers not likely to be confused with "BRAVOS" for tortilla chips). The differences between the marks at issue are obvious in comparison to the differences between the marks found to be distinctive in the cases cited above. Because there are significant differences in the appearance of the marks, Applicant argues that, when the marks are considered in their entirety, there is no likelihood of confusion. *See Champagne Louis Roederer S.A. v. Delicato Vineyards*, 148 F.3d 1373 (Fed. Cir. 1998) ("CRISTAL" and "CRYSTAL CREEK" evoke very different images in the minds of relevant consumers").



B. Commercial Impression. In terms of commercial impression, the Cited Mark and Applicant's Mark also differ significantly. It is the impression the mark as a whole creates on the average reasonably prudent buyer and not the impression made by any individual part thereof. *See Little Caesar Enterprises, Inc. v. Pizza Caesar, Inc.*, 834 F.2d 568 (6th Cir. 1987); 3 J. THOMAS MCCARTHY ON TRADEMARKS § 23.41 (4<sup>th</sup> ed. 2000). Under the overall impression analysis, it would be impermissible, in the instant case, to focus on the similar use of the text element "MF" in the marks, without considering the overall impression the marks, taken in their entirety, have on the purchasing consumer. The rationale behind these rules is that the public will not look at only a portion of the mark to determine the source of the goods and services provided, but will consider the mark as a whole. *See In re National Data Corp.*, 753 F.2d 1056 (Fed. Cir. 1985).

Further, while the Examining Attorney may have determined that the letters "MF" are the dominant element among the marks, a design element is likely to dominate, when a mark includes both words and a design, if the design is more conspicuous. *Association of Co-operative Members, Inc. v. Farmland Industries, Inc.*, 684 F.2d 1134, 1141-42 (5<sup>th</sup> Cir. 1982), cert. denied, 460 U.S. 1038 (1983). Here, Applicant argues that the fact Applicant's Mark is a design mark with a rectangle design and a star, makes the design of Applicant's Mark more conspicuous and arguably the design dominates Applicant's Mark. Therefore, the stylization and design of Applicant's Mark creates a different overall commercial impression on consumers than the Cited Mark.

In fact, in the case of *In re Electrolyte Laboratories, Inc.*, 929 F.2d 645 (Fed. Cir. 1990), a refusal to register the stylized mark K+ for a dietary potassium supplement on the basis of a likelihood of confusion with the mark "K+EFF", also for a dietary potassium supplement, was reversed. The Federal Circuit found that, although the marks have common features, and the goods and channels of trade are similar, there was no likelihood of confusion. The court reasoned that it was error to focus on the K+ in both marks, to the substantial exclusion of the other elements. *See In re Electrolyte Laboratories, Inc.*,

929 F.2d at 647. It concluded that the design was a significant feature of the applicant's "K+" mark, and that the mark, viewed as a whole, served to distinguish its goods from those of others. *See id.* at 647-48.

In the present case, it appears the Examining Attorney has not correctly evaluated and compared the marks in their entirety. Instead, it appears the Examining Attorney has singled out one particular element of the marks, the letters "MF," whereby effectively dismissing the impression of the marks as a whole.

Further, the Examining Attorney stated "...the word portion generally may be the dominant and most significant feature of a mark because consumers will request the goods and/or services using the wording" and that "...potential purchasers are likely to recall and use the letters MF when seeking applicant's services in the marketplace." However, Applicant asserts that consumers will not use the letters "MF" when seeking applicant's services in the marketplace. The letters "MF" included in Applicant's Application stand for "Mighty Fine." Applicant has operated casual burger restaurants under the name Mighty Fine Burgers Fries Shakes (commonly known and referred to by customers as "Mighty Fine") for a number of years. Accordingly, consumers seeking Applicant's restaurant services would not refer to Applicant's services as "MF," but rather as "Mighty Fine." Further, in this case, the design portion of Applicant's Mark is arguably the more recognizable portion of Applicant's Mark because Applicant has used the signature logo in connection with its mark Mighty Fine Burgers Fries Shakes for a number of years, as shown in Applicant's Registration for the mark. See Exhibit A.

It appears the Examining Attorney has failed to recognize the significance of the design component of Applicant's Mark in her determination as to whether a likelihood of consumer confusion between Applicant's Mark and the Cited Mark exists. Rather, while the Examining Attorney claims she has viewed Applicant's Mark as a whole, it appears the Examining Attorney may have focused exclusively on just the letters included in Applicant's Mark, largely ignoring the design.

Accordingly, the design portion of Applicant's Mark is more significant in creating a commercial impression. This simple fact provides a means for the public to distinguish Applicant's Mark and the Cited Mark. As such, the prominent design portion of Applicant's Mark forms a memorable, visual distinguishing point between the respective marks; thus, Applicant's Mark and the Cited Mark are not likely to be confused.

C. The Marks are used on Unrelated Goods and Services.

Despite any similarities between the marks, a likelihood of confusion does not exist merely because identical marks are used for the same broad category of goods, the goods must also be sufficiently similar. *See, e.g., Dynamics Research Corp. v. Langenau Mfg. Co.*, 704 F.2d 1575, 1576 (Fed. Cir. 1983) (no likelihood of confusion between two "DRC" marks both used for goods in the metal fabrication industry); *Electronic Design & Sales v. Electronic Data Sys.*, 21 U.S.P.Q.2D 1388, 1391 (Fed. Cir. 1992) (no likelihood of confusion between "EDS" and "E.D.S.", where both marks used for products designed for the medical field).

Further, the inquiry as to whether there is a likelihood of confusion based on the goods and services also involves determining whether the goods are related, and whether the public will be confused as to their source. TMEP § 1207.01(a)(i), citing *Safety-Kleen Corp. v. Dresser Indust., Inc.*, 518 F.2d 1399, 186 USPQ 476 (C.C.P.A. 1975). Even where two marks are identical, courts and the TTAB have held there is no likelihood of confusion "if the goods or services in question are not related in such a way that they would be encountered by the same persons in situations that would create the incorrect assumption that they originate from the same source." TMEP § 1207.01(a)(i), citing *Shen Mfg. Co. v. Ritz Hotel Ltd.*, 393 F.3d 1238 (Fed. Cir. 2004) (cooking classes and kitchen textiles not related). Here, Applicant's services are *restaurant services*, and Registrant's goods are *wine*. The Examining Attorney

has stated “[c]onsidering the closely related nature of restaurants and wines, source confusion is clearly likely in this case.” Applicant disagrees for the following reasons.

Here, Applicant’s restaurant is a casual family restaurant that does not serve wine, and is not a type of restaurant one would expect serves wine. Applicant’s restaurant is shown in the attached screen captures from its website marked Exhibit C. Further, Applicant has identified 10 restaurants which broadly fall within casual restaurants, which serve burgers, and which are broadly competitive with Applicant’s restaurant services, and do not serve wine. Applicant has attached screen captures of websites of the 10 restaurants showing that none of them promote wine and specifically none has bottled wine carrying any label. See Exhibit D. Accordingly, restaurant services and wine are not related in such a way that they would be encountered by the same customers in situations that would create the incorrect assumption that they originate from the same source.

D. The Channels of Trade are Different

In applying the pertinent *DuPont* factors to the marks at issue herein, “the only relevant application of the law to the facts is in the context of the marketplace, because that is where confusion of prospective purchasers would or would not occur.” *Giant Food, Inc. v. Nation’s Foodservice, Inc.*, 710 F.2d 1565, 1569 (Fed. Cir. 1983). Even when the mark is arbitrary and identical, the registration should be allowed, unless there is a reasonable probability of an encounter of opposing marks by the same customer. *In re Fesco, Inc.*, 219 U.S.P.Q. 437, 439 (TTAB 1984). Likelihood of confusion, not merely possibility of confusion, is the standard. *Id.*

Applicant provides restaurant services to the general public, especially families. On the other hand, the Cited Mark is registered for use in connection with “wine.” Registrant’s goods (wine) are marketed to adults over the age of 21 and are generally sold to specialized stores that carry wine and possibly through upscale restaurants which serve wine, particularly wine in bottles bearing labels.

Registrant's goods are not marketed nor intended for customers of Applicant. Accordingly, the channels of trade through which the parties' goods and services are offered are completely different. Consumers utilizing the casual burger restaurant services offered under Applicant's Mark and the wine offered under the Cited Mark would not encounter the other mark and, therefore, would not be confused or deceived as to the source. Further, one generally would not expect under any circumstances to be able to go to a burger restaurant such as Applicant's and obtain a bottle of wine.

It is highly unlikely that customers of Applicant or of the Cited Mark could ever confuse the source of the relevant goods and services. The Cited Mark's goods are completely unrelated, non-competitive, and not targeted in the same channels of trade as the services offered by Applicant. As articulated in *Fesco*, even when the mark is arbitrary and identical, the registration should be allowed, unless there is a reasonable probability of an encounter of opposing marks by the same customer. *In re Fesco, Inc.*, 219 U.S.P.Q. at 439. Since there is very little probability that Applicant's customers would encounter the Cited Mark or that the customers purchasing wine under the Cited Mark would encounter Applicant's Mark, the marks occupy different channels of trade, and as a result there exists no likelihood of confusion as between Applicant's Mark and the Cited Mark.

3. The Examining Attorney has not provided sufficient evidence showing the goods and services at issue are related.

In *Jacobs v. International Multifoods Corp.*, 668 F.2d 1234, 212 USPQ 641 (CCPA 1982), the court held that the fact that restaurants serve food and beverages is not enough to render food and beverages related to restaurant services for purposes of determining the likelihood of confusion. The court stated, "[t]o establish likelihood of confusion a party must show *something more* than that similar or even identical marks are used for food products and for restaurant services." 668 F.2d 1236. (emphasis added).

Here, Applicant argues that the Examining Attorney has not provided sufficient evidence to show *something more* than that similar or even identical marks are used for food products and for restaurant services. The website evidence the Examining Attorney provided consists of primarily wineries that happen to have a restaurant. However, Applicant argues that it is not unusual for a winery to have an eating section or restaurant associated with the winery in order to provide space for wine tasting on the winery premises. This is quite contrary to a casual fast food restaurant serving hamburgers and offering wine on the premises. Further, a winery having a restaurant is not similar to a stand-alone restaurant offering wine under the same name as the restaurant itself. In other words, customers would expect that a winery may have a restaurant or eating area. However, customers would not necessarily expect a casual, family restaurant, or for that matter any type of stand-alone restaurant, to offer wine under the same mark as the restaurant itself. Contrary to the Examining Attorney's statement that potential purchasers are clearly accustomed to restaurants offering wines under the same name as the restaurant itself, one is unlikely to enter, and certainly not accustomed to entering, a hamburger restaurant and expecting to be served wine having the same name as the restaurant.

Even if the Board determines the Examining Attorney has provided some evidence showing that it is common for restaurants to sell private label wines named after the restaurant, this should not exclude Applicant from registering its mark. *In re Coors Brewing Company*, 343 F.3d 1340 (Fed. Cir. 2003), the Federal Circuit noted it is not unusual for restaurants to be identified with particular food or beverage items that are produced by the same entity that provides the restaurant services or are sold by the same entity under a private label. Thus, for example, some restaurants sell their own private label ice cream, while others sell their own private label coffee. But that does not mean that any time a brand of ice cream or coffee has a trademark that is similar to the registered trademark of some restaurant consumers are likely to assume that the coffee or ice cream is associated with that restaurant. Moreover, as the court further noted, "The Jacobs case stands for the contrary proposition, and in light of the very large number

of restaurants in this country and the great variety in the names associated with those restaurants, the potential consequences of adopting such a principle would be to limit dramatically the number of marks that could be used by producers of foods and beverages.”

While Applicant argues the Examining Attorney has not met the “something more” requirement by the evidence presented, Applicant notes that the “something more” requirement can also be shown by reviewing the nature of the goods and services and the degree of their overlap. For example, the Board found that the “average consumer.....would be likely to view Mexican food items and Mexican restaurant services as emanating from or sponsored by the same source if such goods and services are sold under the same or substantially similar marks.” *In re Azteca Restaurant Enterprises Inc.*, 50 U.S.P.Q. 2d 1209, 1211 (TTAB 1999). Using the same analogy here, Applicant argues that an average consumer would not view wine and casual burger restaurants as emanating from or sponsored by the same source, and therefore the “something more” requirement is not met here. In sum, when analyzing a likelihood of confusion between a mark for retail goods and one for restaurant services, the specific nature of the goods must be compared to those served by the restaurant, and in this case, Applicant does not serve wine at its restaurant. Therefore, Applicant argues that wine and restaurant services are not related, and there is not a likelihood of confusion between Applicant’s Mark and the Cited Mark.

Further, the Examining Attorney has relied, in part, on the Board’s decision in *In re Opus One Inc.*, 60 U.S.P.Q. 2d 1812 (TTAB 2001) where a likelihood of confusion was found between OPUS ONE for use for both wine and restaurant services, where the evidence showed that OPUS ONE is a strong and arbitrary mark, that it is common for restaurants to offer and sell private label wines named after the restaurant, and that registrant’s wines were served in applicant’s restaurant.

However, in this case, Applicant argues there is not sufficient evidence showing that it is common for stand-alone restaurants not attached to wineries to sell private label wines named after the

restaurant or that registrant's wine is served at Applicant's restaurant, or that wine is served at Applicant's restaurant at all.

The Examining Attorney also included evidence consisting of third-party trademark registrations that cover wine and restaurant services, to show that these goods and services come from a common source. However, Applicant argues the third party trademark registrations are not compelling and only show that many entities have registered the same mark on a variety of goods and services, and that an entity *may* register the same mark for both restaurant services and wine.

Finally, confusion should not be concerned with "de minimis" situations, but rather with the practicalities of the real world in which trademarks exist. *See MTD Prods. Inc. v. Universal Tire Corp.*, 193 U.S.P.Q. 56, 59 (TTAB 1976). A refusal to register based upon confusing similarity should be made when a "likelihood," meaning "probability," of confusion has been established and not merely a "possibility" of confusion between use of the marks in question. *See McCarthy, J.*, 3 MCCARTHY ON TRADEMARKS AND UNFAIR COMPETITION, Section 23:3 at 23-10-23-11 (4th ed. 1996). Here, Applicant submits that, under the applicable standard, there is simply no likelihood of confusion and urges the Board to allow Applicant's Mark to proceed to publication.

## **V. SUMMARY**

In making the decision regarding likelihood of confusion, all relevant factors must be considered. It is respectfully submitted that, in view of the differences between Applicant's Mark and the Cited Mark, Applicant's Application is in condition for publication and Applicant requests that the Board reverse the Examining Attorney's refusal to register and Applicant's Application should be published for opposition in due course.



Respectfully submitted,

/s/ William D. Wiese

William D. Wiese

**DUBOIS, BRYANT & CAMPBELL, LLP**

303 Colorado, Suite 2300

Austin, Texas 78701

(512) 457-8000

(512) 457-8008 (facsimile)

**ATTORNEYS FOR APPLICANT**

**EXHIBIT A**

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office  
Corrected

Reg. No. 3,481,705

Registered Aug. 5, 2008

OG Date May 19, 2009

SERVICE MARK  
PRINCIPAL REGISTER



MIGHTY FINE BURGERS FRIES  
SHAKES (TEXAS PARTNERSHIP)  
11570 RESEARCH BLVD.  
AUSTIN, TX 78759

THE MARK CONSISTS OF THE WORD  
"MIGHTY FINE" WITH A STAR ABOVE  
THE MARK AND THE WORDS "BUR-  
GERS", "FRIES" AND "SHAKES" BELOW  
IT.

NO CLAIM IS MADE TO THE EXCLU-  
SIVE RIGHT TO USE "BURGERS FRIES  
SHAKES", APART FROM THE MARK AS  
SHOWN.

FOR: RESTAURANT SERVICES, IN  
CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 12-6-2007; IN COMMERCE  
12-6-2007.

SER. NO. 77-178,478, FILED 5-11-2007.

*In testimony whereof I have hereunto set my hand  
and caused the seal of The Patent and Trademark  
Office to be affixed on May 19, 2009.*

**EXHIBIT B**

# United States of America

United States Patent and Trademark Office

# MF

**Reg. No. 4,085,163**

**Registered Jan. 10, 2012**

**Int. Cl.: 33**

**TRADEMARK**

**PRINCIPAL REGISTER**

MADRONA PROPERTY COMPANY (CALIFORNIA CORPORATION)

#205

35 STILLMAN ST.

SAN FRANCISCO, CA 94107

FOR: WINE, IN CLASS 33 (U.S. CLS. 47 AND 49).

FIRST USE 5-1-2011; IN COMMERCE 5-1-2011.

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

SN 85-266,640, FILED 3-14-2011.

FONG HSU, EXAMINING ATTORNEY



*David J. Kappas*

Director of the United States Patent and Trademark Office

**EXHIBIT C**

Mighty Fine Burgers
mightyfineburgers.com

MIGHTY FINE  
BURGERS • FRIES • SHAKES

MENU
INGREDIENTS
CLASSIC TEXAS
OUR STORY
JOIN OUR TEAM
LOCATIONS



THE  
CLASSIC TEXAS  
BURGER

OUR OBSESSION  
WITH QUALITY  
BEGINS WITH OUR BURGERS



WHAT'S SHAKIN'



HIRING  
TEAM MEMBER

WHAT FOLKS ARE SAYING



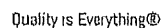
"Making a spur of the moment decision to stop at your burger joint a year ago was one of the best decisions ever! You guys seriously know how to make a burger!"  
-Riley Watkins

More Testimonials

YOUR FEEDBACK

Full Name  
 Email  
  
Type the following into the box you see below  
HX-NA

1 of 38



We make sure our ingredients are the freshest and tastiest around. Our vine-ripened tomatoes, fresh iceberg lettuce and crisp white onions are all harvested on site. Our real American cheese is always perfectly melted and our chili is made with the same all-natural meat as our burgers. We hold all of our vendors to the same high standards we hold ourselves to because we know that true quality depends not only on what we do but also on who we work with.

Our vendors include: Sunlight, Mt. Olive, Hellmann's, Butler Kroyt, Meijer Natural Angus, Heinz, Crown to Idaho, and Blue Bell.



## WHAT'S SHAKIN'?

## WHAT FOLKS ARE SAYING

## YOUR FEEDBACK

While at @mightyflnec - Eva: I wish Mom or Dad knew how to make burgers.

Full Name



Menu | Mighty Fine : x  
mightyfineburgers.com/menu

**MIGHTY FINE**  
BURGERS • FRIES • SHAKES

MENU | INGREDIENTS | CLASSIC TEXAS | OUR STORY | JOIN OUR TEAM | LOCATIONS

MENU / The Classic Texas Burger

Burgers Fresh-Cut Fries & Rings Shakes & Drinks



**The Classic 1/2 lb. Hamburger -- \$5.95**

- ✓ With Your Choice Of: Shredded Lettuce, Tomatoes, Crinkle Cut Pickles, Sliced Onions, and Grilled Onions. Plus: Red, Yellow, or White
- ✓ Extras: Cheese (\$1.00), Jalapeños (\$0.35), Bacon (\$0.89), Chili (\$1.00), and Gluten Free Bun (\$1.00).

**1/4 lb. Hamburger -- \$4.09**

- ✓ With Your Choice Of: Shredded Lettuce, Tomatoes, Crinkle Cut Pickles, Sliced Onions, and Grilled Onions. Plus: Red, Yellow, or White
- ✓ Extras: Cheese (\$0.50), Jalapeños (\$0.35), Bacon (\$0.89), Chili (\$1.00), and Gluten Free Bun (\$1.00).

**Youngsters Menu**

"Y" Burger  
\$3.69 - Ketchup and Pickles Included. Add Cheese for \$0.50.

Giddle Dog  
Grilled Cheese  
"Y" Fries  
Fountain Drink  
Shake  
Lemonade  
Ice Cream Scoop

**Nutrition Facts**  
Nutrition Facts are Available Here [1.2MB PDF]


Menu | Mighty Fine | mightyfineburgers.com/menu/

**MIGHTY FINE**  
BURGERS • FRIES • SHAKES

MENU | INGREDIENTS | CLASSIC TEXAS | OUR STORY | JOIN OUR TEAM | LOCATIONS

**MENU / The Classic Texas Burger**

Burgers   Fresh-Cut Fries & Rings   Shakes & Drinks



Crinkle Fries - \$2.29  
Onion Rings - \$2.99

• We proudly use 100% trans-fat free peanut oil.

**Youngsters Menu**


"Y" Burger  
\$3.69 - Ketchup and Pickles Included. Add Cheese for \$0.50.

Griddle Dog  
Grilled Cheese  
"Y" Fries  
Fountain Drink  
Shake  
Lemonade  
Ice Cream Scoop

**Nutrition Facts**  
Nutrition Facts are Available Here (1.2MB PDF).

**Locals Menu**

BEAT   FOR   HOT   SALAD SANDWICH   EAT BURGER



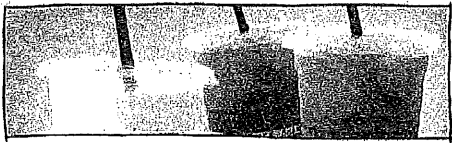
Menu | Mighty Fine F
mightyfineburgers.com/menu/

**MIGHTY FINE**  
BURGERS • FRIES • SHAKES

MENU
INGREDIENTS
CLASSIC TEXAS
OUR STORY
JOIN OUR TEAM
LOCATIONS

**MENU / The Classic Texas Burger**

Burgers
Fresh-Cut Fries & Rings
Shakes & Drinks



Hand-Dipped Shakes – \$4.29

- ✓ Available in Chocolate, Strawberry, and Vanilla.

Fresh-Squeezed Lemonade – \$2.39

- ✓ Available in Original and Strawberry.

Fountain Drinks & Tea – \$2.29

- ✓ Free Refills.

Bottled Sodas – \$2.49

Bottled Beer – \$3.15/3.69

**Youngsters Menu**

**"Y" Burger**

\$3.69 - Ketchup and Pickles Included. Add Cheese for \$0.50.

Griddle Dog

Grilled Cheese

"Y" Fries

Fountain Drink

Shake

Lemonade

Ice Cream Scoop

**Nutrition Facts**

Nutrition Facts are Available Here (1.2MB PDF)

**EXHIBIT D**

Our Menu | Eat'n Park

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MENU

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[VEGETARIAN](#)
[WINE](#)
[SPECIALTY BREADS](#)
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NEW!

BIG. BOLD. BURGERS.

Bigger, bolder, fluffier than our new Brioche bun!

Big, Bold Burgers!

[Pickled](#)
[Pepper](#)
[Bun](#)

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[Burger](#)
[Bun](#)

[Burger](#)
[Bun](#)

[Burger](#)
[Bun](#)

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## MENU

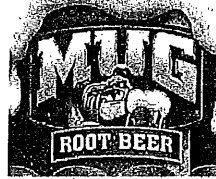
BEVERAGES

PRINTABLE  
TAKEOUT MENU  
NUTRITION



## Beverages

## Fountain



MUG ROOT BEER  
\$2.09



PEPSI  
\$2.09



DIET, CAFFEINE-FREE PEPSI  
\$2.09



SIERRA MIST  
\$2.09



MOUNTAIN DEW  
\$2.09



DR. PEPPER  
\$2.09



DIET MOUNTAIN DEW  
\$2.09

## Iced Tea &amp; Lemonade



FRESH-BREWED LIPTON ICED TEA  
\$2.09



LEMONADE  
\$2.09



STRAWBERRY LEMONADE  
\$2.99



LIPTON BRISK RASPBERRY ICED TEA



LIPTON SWEET TEA



SUGAR-FREE PEACH ICED TEA

\$2.09

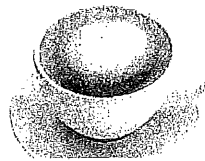


ARNOLD PALMER TEA  
\$2.09

\$2.99

\$2.49

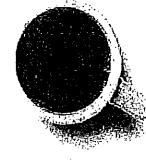
### Hot Beverages



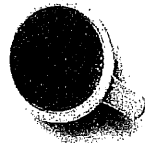
CAPPUCCINO  
\$2.99



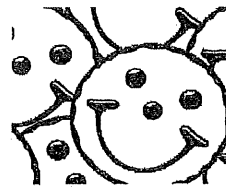
CHAI TEA  
\$2.99



COFFEE - 100% COLOMBIAN DECAF  
\$2.09



COFFEE - GOURMET HOUSE BLEND  
REGULAR  
\$2.09



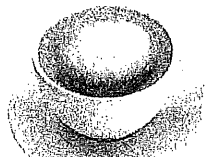
ESPRESSO SHOT (REGULAR)  
\$1.29



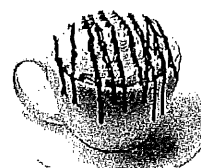
LIPTON HOT TEA (REGULAR)  
\$1.99



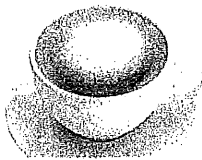
CARAMEL OR VANILLA LATTE  
\$2.99



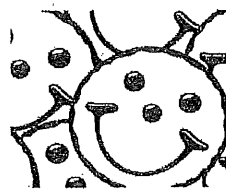
CAFFÉ LATTE  
\$2.99



HOT CHOCOLATE  
\$2.99



CAFFÉ MOCHA  
\$2.99



CAFFÉ AMERICANO  
\$2.99

### Iced Lattes



ICED OREGON CHAI TEA  
\$2.99



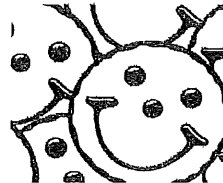
ICED CARAMEL OR VANILLA LATTE  
\$2.99



ICED CAFFÉ LATTE  
\$2.99



ICED CAFFÉ MOCHA  
\$2.99



ICED CAFFÉ AMERICANO  
\$2.99

### Frozen Lattes



MOCHA JAVA FROZEN LATTE  
\$3.59



CARAMEL FROZEN LATTE  
\$3.59

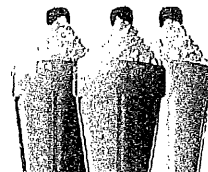


VANILLA FROZEN LATTE  
\$3.59

### Milkshakes



CHAI TEA MILKSHAKE  
\$3.79



CHOCOLATE, VANILLA, OR STRAWBERRY  
MILKSHAKE  
\$3.49



VANILLA LATTE MILKSHAKE  
\$3.79



CARAMEL LATTE MILKSHAKE  
\$3.79



MOCHA JAVA MILKSHAKE  
\$3.79



OREO MILKSHAKE  
\$3.79

### Smoothies





STRAWBERRY SMOOTHIE  
\$2.99

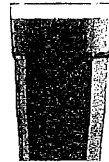


STRAWBERRY BANANA SMOOTHIE  
\$2.99

### Juice



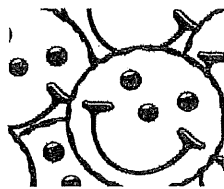
APPLE JUICE  
\$1.69



CRANBERRY JUICE  
\$1.69



ORANGE JUICE  
\$1.69



V8 JUICE  
\$1.79

### Milk



CHOCOLATE MILK  
\$1.99



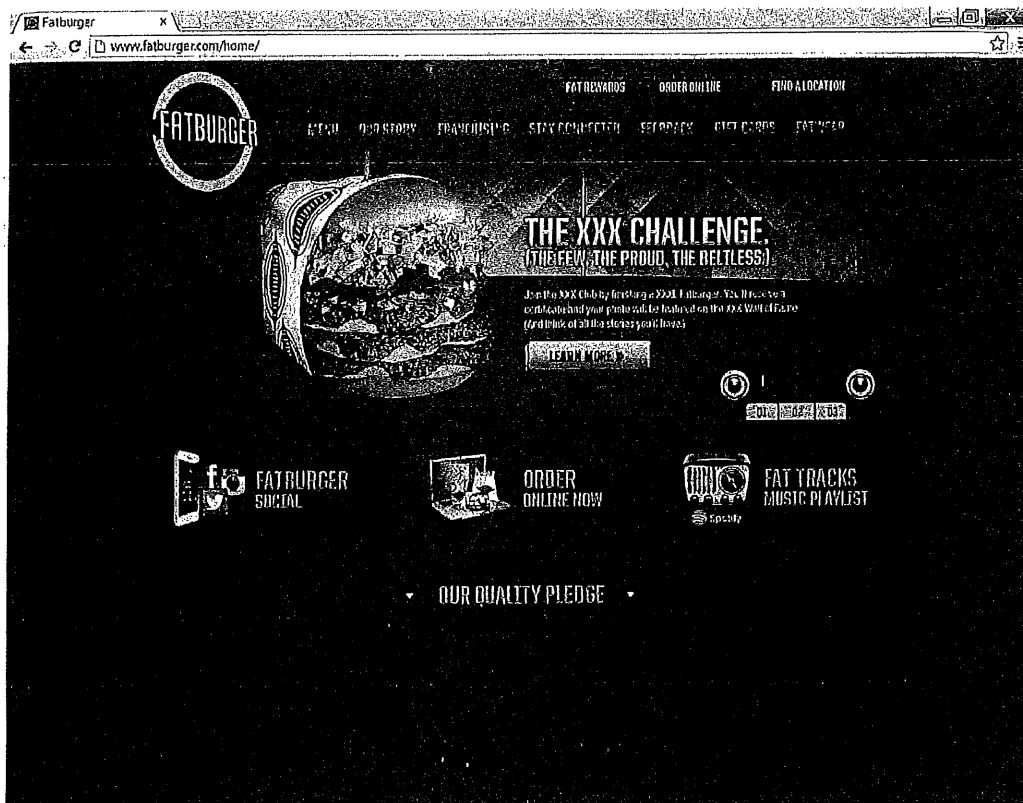
1% MILK  
\$1.99



SKIM MILK  
\$1.99



SILK SOY MILK  
\$2.49





9/10/2014

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**ZAGAT Survey Rated –  
Since 2001**

**Voted Best Burger**  
*Capital Region Living*

**Rated #1 Burger for  
Lunch in NYC**  
*Time Out New York*

**"Willie Wonkas of  
Burgercraft"**  
*The Washington Post*

**"The Best \$5 Burger A  
Man Can Eat"**  
*GQ Magazine*

**Voted Best French  
Fries**  
*Connect Savannah*

**Voted Best Burger**  
*Missoula*



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City, State, or ZIP

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**ORDER ONLINE**

Find your nearest Five Guys and  
follow the easy steps to place your  
order.

**ORDER NOW »**

**VIEW OUR MENU**

Click here to view our menu.  
You can also see our nutritional  
information chart here.

**LOOK AT OUR MENU »**



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1/1



# FIVE GUYS®

US

## BURGERS and FRIES

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### Menu

#### Burgers

Hamburger  
 Cheeseburger  
 Bacon Burger  
 Bacon Cheeseburger  
 Little Hamburger  
 Little Cheeseburger  
 Little Bacon Burger  
 Little Bacon Cheeseburger

#### Dogs

Kosher Style Hot Dog  
 Cheese Dog  
 Bacon Dog  
 Bacon Cheese Dog

[Click here for Nutritional Information.](#)

#### Sandwiches

Veggie Sandwich  
 Cheese Veggie Sandwich  
 Grilled Cheese  
 BLT

*Note: Veggie Sandwiches do not contain veggie burger patties.*

#### Fries

Five Guys Style  
 Cajun Style

*Our fries are cooked in pure, no cholesterol, tasty peanut oil!*

WE SERVE BULK PEANUTS.

Choose as many of our free toppings as you want!

- ☒ Mayo
- ☒ Lettuce
- ☒ Pickles
- ☒ Tomatoes
- ☒ Grilled Onions
- ☒ Grilled Mushrooms
- ☒ Ketchup
- ☒ Mustard
- ☒ Relish
- ☒ Onions
- ☒ Jalapeno Peppers
- ☒ Green Peppers
- ☒ A.I.G. Steak Sauce
- ☒ Bar-B-Q Sauce
- ☒ Hot Sauce



We proudly serve Coca-Cola® products.



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 California Transparency in Supply Chains Act of 2010

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# Frisch's Big Boy

Home | Menu | My Frisch's | Our Community | Careers | Employee | Investors

Store Locations Nearest You





- Burgers & Sandwiches
- Dinners
- Soups and Salads
- Sides
- Desserts
- Beverages
- Breakfast
- Kid's Menu
- Recipes



**Frisch's Original Tartar Sauce**  
Order Info Here!



Gift Cards



Join My Frisch's

**All of our burgers are made from fresh, never frozen 100% premium ground beef!**











**Frish's**  
*Big Boy*

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**Frish's**  
original  
Tartar Sauce  
Order Info  
Here!



**Frish's**  
Gift Cards



**Join My Frish's**



**REAL**  
Ice Cream,  
**REAL** Milk  
Hand Dipped  
Shakes!








Welcome to **WORLD'S GREATEST HAMBURGERS** **FUDDRUCKERS**

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**JOIN THE FUDDS**  
**National Cheeseburger Day**  
**3-POUND BURGER**  
**CHALLENGE \$19.99**



**BLOG**

**BETTER BEEF BUNS & BURGER**  
 GIFT CARDS

**Fuddruckers CLUB**

*Step up on THURSDAY, SEPTEMBER 18, 2014*

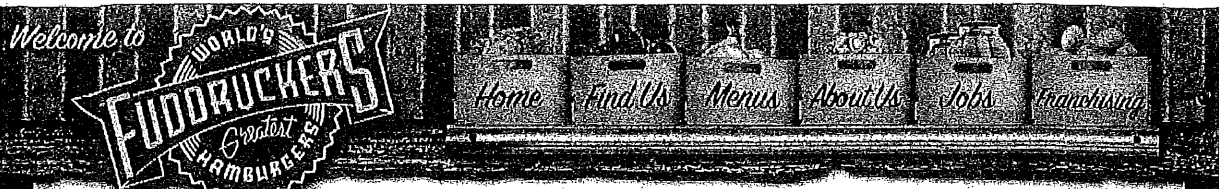
INCLUDES A 1 LB. ORDER OF FUDDS FRIES & A BOTTOMLESS COCA-COLA® BEVERAGE!

**CLICK HERE FOR A LIST OF PARTICIPATING LOCATIONS!**

*24 hours notice required. Call today and make a reservation!*

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Visit our other Libby's Inc. family brands: **Libby's** **Paradise** **LIBBY'S CULINARY SERVICES**



Our salads are the perfect change of pace...

From our popular Chicken Caesar Salad to our zesty Taco Salad, we've got the perfect alternative, without skimping on flavor.



Local menus may vary due to seasonality and local tastes, but you'll always find a fresh, never frozen, juicy burger grilled to your order - with all the free market fresh fixins you've come to love - at every Fuddruckers you visit.

### World's Greatest Hamburgers®

#### The Original Fudds

Fresh - never frozen - 1/3, 1/2, 2/3 or 1 lb. 100% USDA All-American, premium-cut beef. Grilled to order\* and placed atop our fresh, sesame-topped scratch baked bun ready for you to pile it high at our market fresh produce bar.

### Chicken Sandwiches

#### Crispy Chicken

Beer-battered skinless, boneless chicken breast.

#### Grilled Chicken

Grilled skinless, boneless chicken breast

#### Bacon & Swiss

A crispy or grilled chicken breast with Smokehouse bacon and Swiss cheese

### Salads

All salads (except Taco Salad) Include grilled or crispy chicken breast

#### Chicken Caesar

A traditional favorite with Caesar dressing and parmesan cheese of 38

### Specially Burgers

#### Southwest

Smokehouse bacon, guacamole and pepper jack cheese

#### The Works

Smokehouse bacon, American cheese and grilled mushrooms

#### Three Cheese

American, cheddar and Swiss

#### Inferno

Spicy jalapenos, caramelized onions, pepper jack cheese

#### Swiss Melt

Sauteed mushrooms, grilled onions and Swiss cheese

#### Bacon Cheddar

Smokehouse bacon and cheddar cheese

### Fudds Exotic Burgers™

#### Buffalo\*, Elk\*, and Wild Boar\*

Our all-natural, free-range, grass and grain fed game burgers are 100% antibiotic and hormone free. Often lean and always tasty, Fudds Exotics™ are full of nutritional benefits and are served on a wheat bun, which contains 3 g. of fiber.

Fudds Exotics

**Napa Valley**

Romaine lettuce, bleu cheese, apples, dried cranberries and almonds



Includes drink, cookie and choice of: fries, apple wedges, fruit cup, BBQ beans or coleslaw. For kids 12 and under.

**Hamburger**  
**Hot Dog**  
**Grilled Cheese**  
**Cheeseburger**  
**Chicken Tenders**

Menu and sides may vary by local tastes.

So Build Your Own® and make it yours at our market fresh produce bar or add your favorite toppings from the grill for a World's Greatest Burger™ experience that can't be beat.

**See all our Exotic Burgers.**

Availability may vary by restaurant and local taste preferences.

**Turkey Burger****Veggie Burger****Grilled Salmon****Crispy Fish Sandwich****Ribeye Steak Sandwich****Shakes**

Rich and creamy shakes hand-blended to order.

**Cookies**

Fresh baked chocolate chip, oatmeal raisin, white chocolate macadamia, sugar cookies and cookies made with M&M'S® Brand Chocolate Candies with 0 g artificial trans fats.

\* This item may contain raw or undercooked ingredients. Notice: Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness.

Fuddruckers uses 0 g. artificial trans fat soybean oil. Spud Spice is Fuddruckers® savory spice with a pepper kick.

The M&M'S® trademark is a registered trademark of Mars, Incorporated. Mars, Incorporated has no affiliation or association with Luby's Fuddruckers Restaurants, LLC's preparation and sale of these products.

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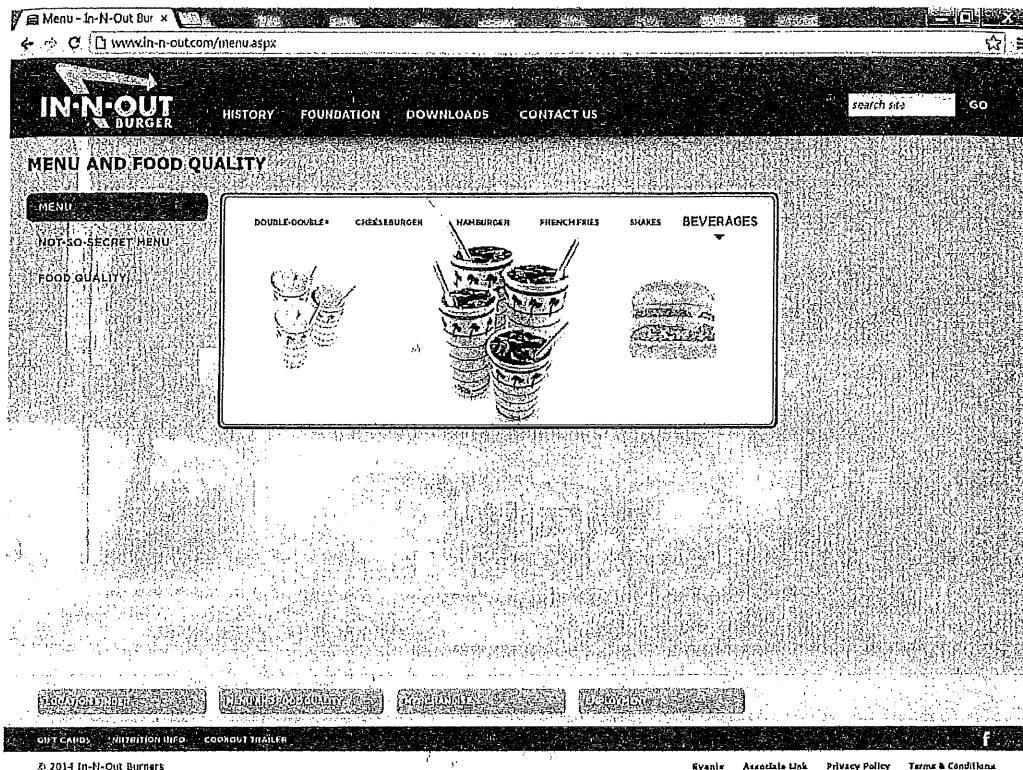
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**SMASHING IS BETTER**

Why? Our handcrafted burgers are smashed, seared and seasoned to order, using our fresh, premium beef. Whether you choose our Classic Smashburger or decide to upgrade, we deliver a grab-bagging, juicy burger you can taste in every bite.

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Smashburger is a fast-casual restaurant offering great eating, cool ed-to-order burgers and more.  
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## OUR FAVORITES

CLASSIC SMASH™

BACON CHEESEBURGER

AVOCADO CLUB CHICKEN

SMASHFRIES™



CLASSIC SMASH™

## FRIES & SIDES

FRENCH FRIES

SMASHFRIES

SWEET POTATO FRIES

HAYSTACK ONIONS

VEGGIE FRITES

SIDE GARDEN SALAD

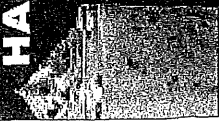
## HAND-SPUN SHAKES

VANILLA, CHOCOLATE,

STRAWBERRY

OREO®, NUTTER BUTTER®,

BUTTERFINGER®



## SMASHBURGER®

REGIONAL BURGER RECIPES

Click here to find a restaurant near you & your regional items.

AVOCADO CLUB

BBQ, BACON & CHEDDAR

SPICY JALAPEÑO BAJA

SPINACH, CUCUMBER &  
GOAT CHEESE

TRUFFLE MUSHROOM SWISS

AVOCADO RANCH VEGGIE  
BLACK BEAN

CREATE YOUR OWN BURGER



SMASHFRIES™

## KIDS MEALS

For kids 12 and under.  
Served with fries and a kids fountain drink.

KIDS SMASH™

HOT DOG

CHICKEN STRIPS

GRILLED CHEESE

»» SUBSTITUTE ««  
HORIZON® ORGANIC MILK  
OR HONEST® ORGANIC  
APPLE JUICE

## SMASHCHICKEN

REGIONAL CHICKEN RECIPES

AVOCADO CLUB

BBQ, BACON & CHEDDAR

SPICY JALAPEÑO BAJA

SPINACH, CUCUMBER &  
GOAT CHEESE

TRUFFLE MUSHROOM SWISS

CLASSIC



AVOCADO CLUB CHICKEN

## FRESH SALADS

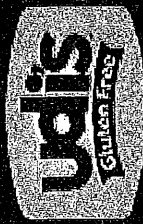
SPINACH, CUCUMBER &  
GOAT CHEESE

HARVEST

BAJA COBB

CLASSIC COBB

## NOW SERVING GLUTEN FREE BUNS

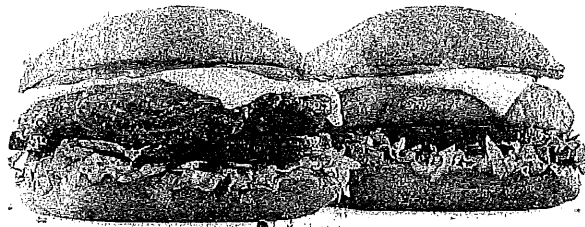


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# LOVE THE CHEESY PUB

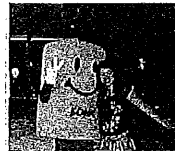
Try SONIC's new Cheesy Pub Chicken Sandwich!



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Ultimate Drink Stop®

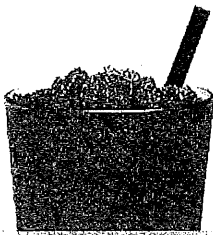
**1,063,953**

**Fountain Drink & Slush Combinations**

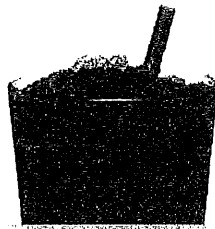
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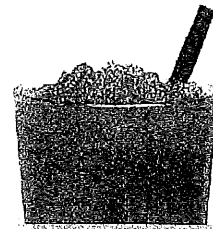
### FAMOUS SLUSHES



**Blue Coconut Slush**



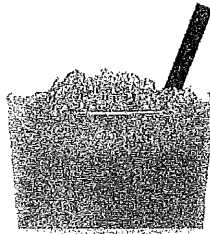
**Cherry Slush**



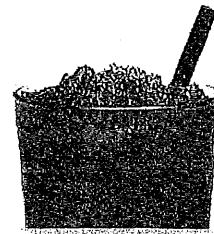
**Minute Maid® Cranberry\* Juice Slush**



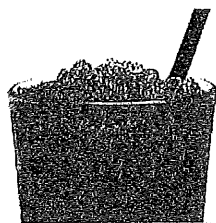
**Grape Slush**



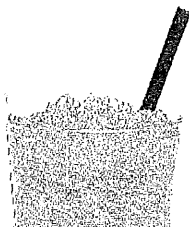
**Orange Slush**



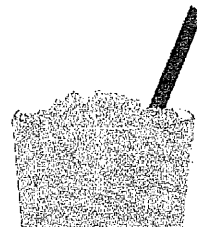
**Watermelon Slush**



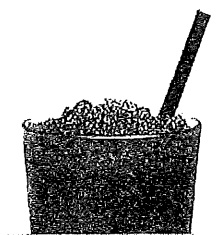
**POWERADE® Mountain Blast® Slush**



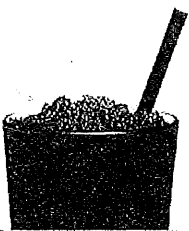
**Atomic Lemon Slush**



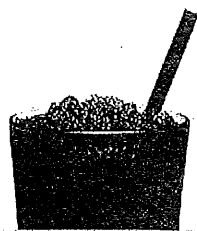
**Banana Taffy Slush**



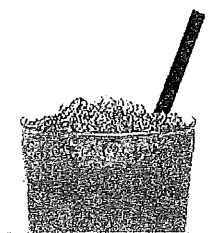
**Polynesian Punch Slush**



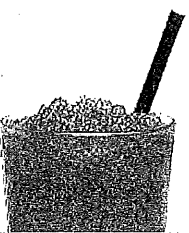
**Miami Sunrise Slush**



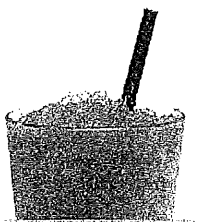
**Sour Blue Raspberry Slush**



**Cotton Candy Slush**

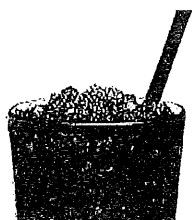


**Super Peach Ring Slush**



**Green Apple Slush**

**NERDS® CANDY\* SLUSHES**



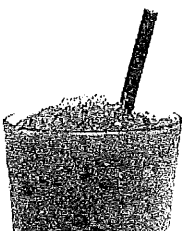
**Blue Raspberry with NERDS® Candy\***



**Grape Slush with NERDS® Candy\***



**Watermelon Slush with NERDS® Candy\***

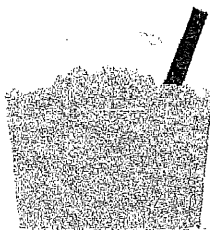


**Green Apple Slush with NERDS® Candy\***



**Cherry Slush with NERDS® Candy\***

### REAL FRUIT SLUSHES



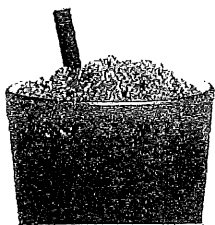
**Lemon Fruit Slush**



**Lemonberry Fruit Slush**

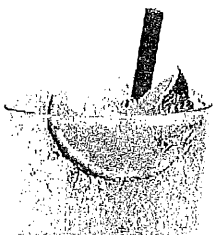


**Lime Fruit Slush**



**Strawberry Fruit Slush**

## LIMEADES



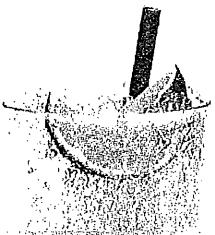
**Limeade**



**Diet Cherry\*\* Limeade**



**Cherry Limeade**



**Diet Limeade**



**Cranberry\* Limeade**

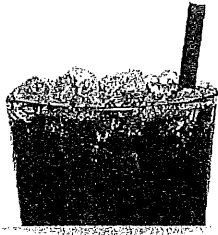


**Strawberry Limeade**

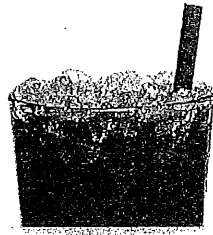
## SOFT DRINKS

9/10/2014

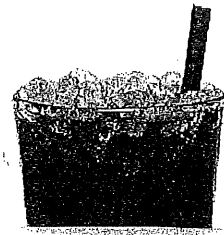
Menu: Ultimate Drink Stop ® | Sonic, America's Drive-In



**Barq's® Root Beer**



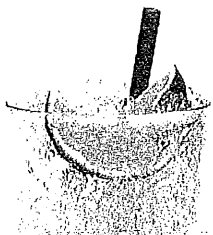
**Coca-Cola®**



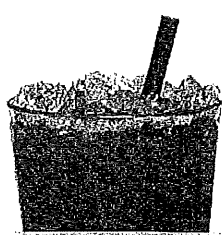
**Dr Pepper®**



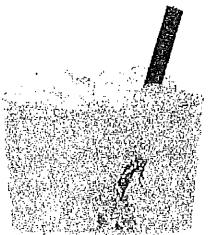
**Hi-C® Fruit Punch**



**Sprite Zero®**



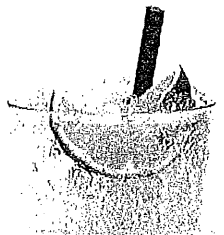
**POWERADE® Mountain Blast® Drink**



**Minute Maid® Lemonade**



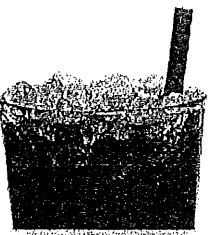
**Diet Dr Pepper®**



**Sprite®**

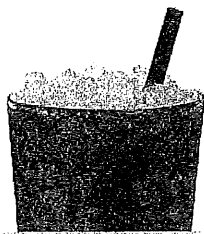


**Coca-Cola® Zero**



**Diet Coke®**

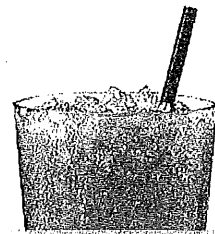
## ULTIMATE ICED TEA STOP



**Unsweet Iced Tea**



**Sweet Iced Tea**

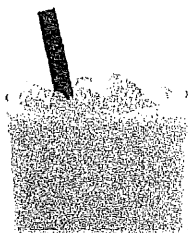


**Sweet Green Iced Tea**



**Diet Green Iced Tea**

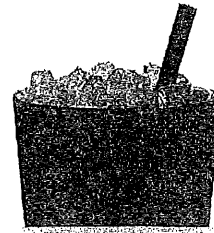
## MINUTE MAID® JUICES



**Orange Juice**



**Minute Maid® 100% Apple Juice Box**

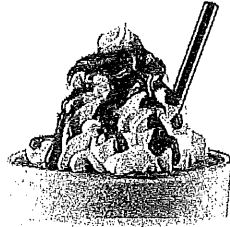


**Cranberry Juice\***

## PREMIUM ROAST COFFEES



**Red Button Roast Premium Coffee**



**Java Chiller - Caramel**



**Java Chiller - Chocolate**



**Java Chiller - French Vanilla**

## MILK



**Milk Jug (1%) - Chocolate**



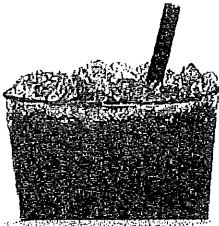
**Milk Jug (1%) - White**

## OCEAN WATER®



9/10/2014

Menu: Ultimate Drink Stop ® | Sonic, America's Drive-In



**Ocean Water®**

### SONIC WAVE® PURIFIED WATER



**SONIC Wave® Purified Water**

*Prices and menu items vary according to locations. Prices are subject to change without notice. Soft drink serving size reflects the amount of liquid in the beverage cup. A beverage cup will be filled 1/2 full of ice (unless otherwise requested)*


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- BREAKFAST
- LUNCH & DINNER
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  - SPECIALTY STEAKBURGERS
  - \$4 SPECIALTY
  - CLASSIC MILK SHAKES
  - SIDE BY SIDE MILK SHAKES
  - SPECIALTY MILK SHAKES
  - GENUINE CHILI
  - CLASSIC MELTS
  - STEAKBURGER SHOOTERS
  - SIGNATURE STEAK FRANKS
  - SANDWICHES
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  - FRIES
- DRINKS
  - DESSERTS
  - DRIVE-THRU
  - 4 DOLLAR MENU
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  - NUTRITION
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## ICED TEA

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## CHERRY LIMEADE

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## NESTLE® PURE LIFE® BOTTLED WATER

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**HOT TEA**

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**HOT CHOCOLATE**

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**CHOCOLATE MILK**  
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