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

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

NOTICE OF OPPOSITION

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

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

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



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

12-23-2004

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

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

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

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

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

- (a) Registration No. 652,137 – **WHATABURGER** for “hamburger sandwich,” registered on the Principal Register September 24, 1957.
- (b) Registration No. 891,082 – **WHATABURGER** for “restaurant services and drive in restaurant services,” registered on the Principal Register May 12, 1970.
- (c) Registration No. 1,011,927 – **WHATABURGER** for “hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches” and “restaurant and drive-in restaurant services,” registered on the Principal Register on May 27, 1975.

- (d) Registration No. 1,011,928 – **WHATABURGER & W Design** for “hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches” and “restaurant and drive-in restaurant services,” registered on the Principal Register on May 27, 1975.
- (e) Registration No. 1,014,196 – **WHATABURGER JR.** for “prepared hamburger sandwich for consumption on or off premises,” registered on the Principal Register on June 24, 1975.
- (f) Registration No. 1,116,918 – **WHATAMEAL** for “prepared meal consisting of a hamburger sandwich, french fries and a beverage for consumption on or off the premises,” registered on the Principal Register April 24, 1979.
- (g) Registration No. 1,206,344 – **WHATACATCH** for “breaded fish fillets suitable for fish sandwiches” and “prepared fish sandwich for consumption on or off the premises,” registered on the Principal Register August 24, 1982.
- (h) Registration No. 2,150,703 – **WHATASIZE IT!** for “restaurant services featuring a prepared meal containing french fries and a soft drink for consumption on or off the premises,” registered on the Principal Register April 14, 1998.
- (i) Registration No. 2,160,285 – **WHATACHICK’N** for “chicken sandwich,” registered on the Principal Register May 26, 1998.
- (j) Registration No. 2,335,590 – **WHATABURGER** for “restaurant services,” registered on the Principal Register March 28, 2000.
- (k) Registration No. 2,372,372 – **WHATAKIDS** for “clothing for children, namely, shirts, polo shirts, t-shirts, dresses, overalls, onesies, baseball caps and hats,” registered on the Principal Register August 1, 2000.
- (l) Registration No. 2,409,945 – **WHATAHILL** for “frozen flavored fruit drinks offered for sale exclusively through applicant’s restaurants,” registered on the Principal Register December 5, 2000.
- (m) Registration No. 2,418,380 – **WHATAGUY** for “restaurant services,” registered on the Principal Register January 2, 2000.
- (n) Registration No. 2,432,191 – **WHATAKIDS** for “restaurant services,” registered on the Principal Register February 27, 2001.
- (o) Registration No. 2,519,854 – **WHATACOMIX** for “comic books and children’s activity books,” registered on the Principal Register December 18, 2001.
- (p) Registration No. 2,534,527 – **WHATAPLACE! WHATATASTE!** for “restaurant services,” registered on the Principal Register January 29, 2002.

- (q) Registration No. 2,757,109 – **WHATABURGER** for “charitable fundraising services,” registered on the Principal Register August 26, 2003.
- (r) Registration No. 2,846,139 – **WHATABLENDERS** for “milk shake drinks, bases for milk shake drinks and candy flavored toppings therefor, registered on the Principal Register May 25, 2004.

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

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

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

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

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

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

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

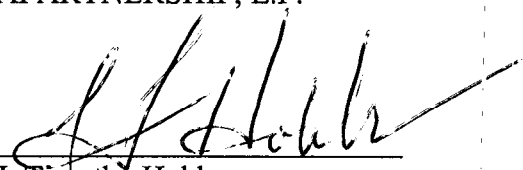
WHEREFORE, Opposer prays that its opposition be sustained and that Applicant's proposed mark be denied registration.

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

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

Respectfully submitted,

WHATAPARTNERSHIP, L.P.

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

Attorneys for WhataPartnership, L.P.

Dated: December 22, 2004
WRFMAIN 12273932.1

EXHIBIT A

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 652,137

United States Patent and Trademark Office

Registered Sep. 24, 1957

10 Year Renewal

Renewal Term Begins Sep. 24, 1997

**TRADEMARK
PRINCIPAL REGISTER**

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)

4600 PARKDALE DRIVE

CORPUS CHRISTI, TX 78411, BY ASSIGNMENT, CHANGE OF NAME, CHANGE OF NAME, ASSIGNMENT AND MERGER WITH DOBSON, HARMON A. (UNITED STATES CITIZEN) CORPUS CHRISTIE, TX

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

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

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

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

Int. Cl.: 42

Prior U.S. Cl.: 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 891,082

Registered May 12, 1970

Renewal Approved Feb. 15, 1990

SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

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

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

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

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

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

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

COMMISSIONER OF PATENTS AND TRADEMARKS

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

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

United States Patent and Trademark Office
10 Year Renewal

Reg. No. 1,011,927

Registered May 27, 1975

Renewal Term Begins May 27, 1995

TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

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

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

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

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

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

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

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

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

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

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

COMMISSIONER OF PATENTS AND TRADEMARKS

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

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

United States Patent and Trademark Office
10 Year Renewal

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

TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER



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

THE DRAWING IS LINED FOR THE
COLORS ORANGE AND BROWN, BUT

COLOR IS NOT CLAIMED AS A FEATURE OF THE MARK.

FOR: SOFT DRINKS, IN CLASS 43
(INT. CL. 32).

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

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

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

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,014,196

Registered June 24, 1975

10 Year Renewal

Renewal Term Begins June 24, 1995

**TRADEMARK
PRINCIPAL REGISTER**

WHATABURGER JR.

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

OWNER OF U.S. REG. NOS. 652,117,
891,082 AND 961,811.

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

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

SER. NO. 73 (07,283), FILED 11-26-1973.

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

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 1,116,918

United States Patent and Trademark Office

Registered Apr. 24, 1979

10 Year Renewal

Renewal Term Begins Apr. 24, 1999

**TRADEMARK
PRINCIPAL REGISTER**

WHATAMEAL

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

FOR: PREPARED MEAL CONSISTING
OF A HAMBURGER SANDWICH,
FRENCH FRIES AND A BEVERAGE
FOR CONSUMPTION ON OR OFF THE
PREMISES, IN CLASS 30 (U.S. CL. 46).
FIRST USE 7-1-1975; IN COMMERCE
7-1-1975.

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

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

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,206,344

Registered Aug. 24, 1982

TRADEMARK
Principal Register

WHATAATCH

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

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

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

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

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

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

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

JERRY L. PRICE, Primary Examiner

ROBERT C. CLARK JR., Examiner

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,150,703

United States Patent and Trademark Office

Registered Apr. 14, 1998

**SERVICE MARK
PRINCIPAL REGISTER**

WHATASIZE IT!

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

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

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

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

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

ALICE SUE CARRUTHERS, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 2,160,285

United States Patent and Trademark Office

Registered May 26, 1998

TRADEMARK
: PRINCIPAL REGISTER

WHATACHICK'N

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

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

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

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

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

SUSAN LESLIE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,335,590

United States Patent and Trademark Office

Registered Mar. 28, 2000

**SERVICE MARK
PRINCIPAL REGISTER**

WHATABURGER

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

FIRST USE 1-1-1950; IN COMMERCE
2-10-1953.
OWNER OF U.S. REG. NOS. 1,011,927, 2,160,285
AND OTHERS.

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

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

DAVID ETTINGER, EXAMINING ATTORNEY

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 2,372,372

Registered Aug. 1, 2000

**TRADEMARK
PRINCIPAL REGISTER**

WHATAKIDS

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

ALLS, ONESIES, BASEBALL CAPS AND HATS, IN
CLASS 25 (U.S. CLS. 22 AND 39).
FIRST USE 11-0-1998; IN COMMERCE 2-15-1999.

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

FOR: CLOTHING FOR CHILDREN, NAMELY,
SHIRTS, POLO SHIRTS, T-SHIRTS, DRESSES, OVER-

SUSAN LESLIE DUBOIS, EXAMINING ATTORNEY

Int. Cl.: 32

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

Reg. No. 2,409,945

United States Patent and Trademark Office

Registered Dec. 5, 2000

**TRADEMARK
PRINCIPAL REGISTER**

WHATACHILL

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

PLICANT'S RESTAURANTS, IN CLASS 32 (U.S. CLS.
45, 46 AND 48).
FIRST USE 10-0-1997; IN COMMERCE 10-0-1997.

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

FOR: FROZEN FLAVORED FRUIT DRINKS OF-
FERED FOR SALE EXCLUSIVELY THROUGH AP-

MITCHELL FRONT, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,418,380

United States Patent and Trademark Office

Registered Jan. 2, 2001

**SERVICE MARK
PRINCIPAL REGISTER**

WHATAGUY

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

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

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

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

KATHERINE STOIDES, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,432,191

United States Patent and Trademark Office Registered Feb. 27, 2001

**SERVICE MARK
PRINCIPAL REGISTER**

WHATAKIDS

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

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

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

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

MITCHELL FRONT, EXAMINING ATTORNEY

Int. Cl.: 16

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

United States Patent and Trademark Office

Reg. No. 2,519,854

Registered Dec. 18, 2001

**TRADEMARK
PRINCIPAL REGISTER**

WHATACOMIX

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

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

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

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

EDWARD TIMBERLAKE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,534,527

United States Patent and Trademark Office

Registered Jan. 29, 2002

**SERVICE MARK
PRINCIPAL REGISTER**

WHATAPLACE! WHATATASTE!

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

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

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

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

JASON TURNER, EXAMINING ATTORNEY

Int. Cl.: 36

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

United States Patent and Trademark Office

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

**SERVICE MARK
PRINCIPAL REGISTER**

WHATABURGER

**WHATAPARTNERSHIP, L.P. (DELAWARE LIM-
ITED PARTNERSHIP)
300 DELAWARE AVENUE
SUITE 900
WILMINGTON, DE 19801**

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

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

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

RUSS HERMAN, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 2,846,139

United States Patent and Trademark Office

Registered May 25, 2004

TRADEMARK
PRINCIPAL REGISTER

WHATABLENDERS

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

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

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

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

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

DAWN FELDMAN, EXAMINING ATTORNEY

EXHIBIT A

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Prior U.S. Cl.: 46

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 652,137

Registered Sep. 24, 1957

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WHATABURGER

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

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

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10 Year Renewal

Reg. No. 1,011,927

Registered May 27, 1975

Renewal Term Begins May 27, 1995

TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER

WHATABURGER

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

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

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

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

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

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

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

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

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

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

COMMISSIONER OF PATENTS AND TRADEMARKS

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

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

United States Patent and Trademark Office
10 Year Renewal

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

TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER



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

THE DRAWING IS LINED FOR THE
COLORS ORANGE AND BROWN, BUT

COLOR IS NOT CLAIMED AS A FEATURE OF THE MARK.

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

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

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

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

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,014,196

Registered June 24, 1975

10 Year Renewal

Renewal Term Begins June 24, 1995

**TRADEMARK
PRINCIPAL REGISTER**

WHATABURGER JR.

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

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

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

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

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

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

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 1,116,918

Registered Apr. 24, 1979

Renewal Term Begins Apr. 24, 1999

**TRADEMARK
PRINCIPAL REGISTER**

WHATAMEAL

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

FOR: PREPARED MEAL CONSISTING
OF A HAMBURGER SANDWICH,
FRENCH FRIES AND A BEVERAGE
FOR CONSUMPTION ON OR OFF THE
PREMISES, IN CLASS 30 (U.S. CL. 46).
FIRST USE 7-1-1975; IN COMMERCE
7-1-1975.

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

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

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,206,344

Registered Aug. 24, 1982

TRADEMARK
Principal Register

WHATA CATCH

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

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

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

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

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

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

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

JERRY L. PRICE, Primary Examiner

ROBERT C. CLARK JR., Examiner

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,150,703

United States Patent and Trademark Office

Registered Apr. 14, 1998

**SERVICE MARK
PRINCIPAL REGISTER**

WHATASIZE IT!

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

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

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

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

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

ALICE SUE CARRUTHERS, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,160,285

Registered May 26, 1998

**TRADEMARK
: PRINCIPAL REGISTER**

WHATACHICK'N

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

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

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

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

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

SUSAN LESLIE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,335,590

United States Patent and Trademark Office

Registered Mar. 28, 2000

**SERVICE MARK
PRINCIPAL REGISTER**

WHATABURGER

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

FIRST USE 1-1-1950; IN COMMERCE
2-10-1953.
OWNER OF U.S. REG. NOS. 1,011,927, 2,160,285
AND OTHERS.

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

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

DAVID ETTINGER, EXAMINING ATTORNEY

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 2,372,372

Registered Aug. 1, 2000

**TRADEMARK
PRINCIPAL REGISTER**

WHATAKIDS

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

ALLS, ONESIES, BASEBALL CAPS AND HATS, IN
CLASS 25 (U.S. CLS. 22 AND 39).
FIRST USE 11-0-1998; IN COMMERCE 2-15-1999.

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

FOR: CLOTHING FOR CHILDREN, NAMELY,
SHIRTS, POLO SHIRTS, T-SHIRTS, DRESSES, OVER-

SUSAN LESLIE DUBOIS, EXAMINING ATTORNEY

Int. Cl.: 32

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

Reg. No. 2,409,945

United States Patent and Trademark Office

Registered Dec. 5, 2000

**TRADEMARK
PRINCIPAL REGISTER**

WHATACHILL

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

PLICANT'S RESTAURANTS, IN CLASS 32 (U.S. CLS.
45, 46 AND 48).
FIRST USE 10-0-1997; IN COMMERCE 10-0-1997.

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

FOR: FROZEN FLAVORED FRUIT DRINKS OF-
FERED FOR SALE EXCLUSIVELY THROUGH AP-

MITCHELL FRONT, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,418,380

United States Patent and Trademark Office

Registered Jan. 2, 2001

**SERVICE MARK
PRINCIPAL REGISTER**

WHATAGUY

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

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

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

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

KATHERINE STOIDES, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,432,191

United States Patent and Trademark Office

Registered Feb. 27, 2001

**SERVICE MARK
PRINCIPAL REGISTER**

WHATAKIDS

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

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

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

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

MITCHELL FRONT, EXAMINING ATTORNEY

Int. Cl.: 16

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

United States Patent and Trademark Office

Reg. No. 2,519,854

Registered Dec. 18, 2001

**TRADEMARK
PRINCIPAL REGISTER**

WHATACOMIX

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

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

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

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

EDWARD TIMBERLAKE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 2,534,527

Registered Jan. 29, 2002

**SERVICE MARK
PRINCIPAL REGISTER**

WHATAPLACE! WHATATASTE!

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

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

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

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

JASON TURNER, EXAMINING ATTORNEY

Int. Cl.: 36

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

United States Patent and Trademark Office

Reg. No. 2,757,109

Registered Aug. 26, 2003

**SERVICE MARK
PRINCIPAL REGISTER**

WHATABURGER

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

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

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

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

RUSS HERMAN, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 2,846,139

United States Patent and Trademark Office

Registered May 25, 2004

TRADEMARK
PRINCIPAL REGISTER

WHATABLENDERS

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

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

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

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

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

DAWN FELDMAN, EXAMINING ATTORNEY