

ESTTA Tracking number: **ESTTA270146**

Filing date: **03/04/2009**

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

Notice of Opposition

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

Opposer Information

Name	KBI Holdings, L.L.C.
Granted to Date of previous extension	03/04/2009
Address	9311 East Via de Ventura Scottsdale, AZ 85258 UNITED STATES

Attorney information	Renee L. Mitchell Ryley Carlock & Applewhite One North Central Avenue Suite 1200 Phoenix, AZ 85004 UNITED STATES rmitchell@rcalaw.com, jbenford@rcalaw.com Phone:602-258-7701
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Applicant Information

Application No	77535130	Publication date	11/04/2008
Opposition Filing Date	03/04/2009	Opposition Period Ends	03/04/2009
Applicant	BBK Tobacco & Foods, LLP 3315 W. Buckeye Rd., Ste. B Phoenix, AZ 85009 UNITED STATES		

Goods/Services Affected by Opposition

Class 034. First Use: 2007/05/01 First Use In Commerce: 2007/11/15 All goods and services in the class are opposed, namely: Cigar humidifiers
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Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)


Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3262105	Application Date	10/21/2004
Registration Date	07/10/2007	Foreign Priority Date	NONE
Word Mark	BLIMPIE SNACK SHACK		

Design Mark	BLIMPIE SNACK SHACK
Description of Mark	NONE
Goods/Services	Class 043. First use: First Use: 2005/03/31 First Use In Commerce: 2005/03/31 Restaurant services

U.S. Registration No.	3261911	Application Date	03/03/2004
Registration Date	07/10/2007	Foreign Priority Date	NONE
Word Mark	BLIMPIE XPRESS		
Design Mark	BLIMPIE XPRESS		
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2005/03/31 First Use In Commerce: 2005/03/31 Restaurant services, carry out restaurant services, catering services		

U.S. Registration No.	3153304	Application Date	05/25/2005
Registration Date	10/10/2006	Foreign Priority Date	NONE
Word Mark	BLIMPIE		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 029. First use: First Use: 2004/07/00 First Use In Commerce: 2004/07/00 Salads except macaroni, rice and pasta salads</p> <p>Class 030. First use: First Use: 2004/07/00 First Use In Commerce: 2004/07/00 Prepared meat, fish and other food sandwiches, consisting of roast beef, ham, chicken, tuna, turkey, steak, bacon, pastrami and corned beef; breakfast food combination sandwiches consisting of scrambled eggs, sausage, bacon, ham and cheese, all for consumption on or off the premises</p> <p>Class 043. First use: First Use: 2005/04/00 First Use In Commerce: 2005/04/00 Restaurant services, carry out restaurant services, catering services</p>

U.S. Registration No.	3008697	Application Date	05/06/2004
Registration Date	10/25/2005	Foreign Priority Date	NONE


Word Mark	THE BLIMPIE BLUFFIN
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Design Mark	
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Description of Mark	NONE
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Goods/Services	<p>Class 030. First use: First Use: 1979/00/00 First Use In Commerce: 1979/00/00 Hot breakfast sandwiches, namely, egg sandwiches; egg and cheese sandwiches; egg and ham sandwiches; egg, cheese and ham sandwiches; egg and sausage sandwiches; egg, cheese and sausage sandwiches; egg and bacon sandwiches; egg, cheese and bacon sandwiches; and a combination of any of the aforesaid sandwiches</p>
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U.S. Registration No.	2997499	Application Date	05/06/2004
Registration Date	09/20/2005	Foreign Priority Date	NONE

Word Mark	BLIMPIE BLAST.
Design Mark	
Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 1991/00/00 First Use In Commerce: 1991/00/00 prepared meat, fish and other sandwiches

U.S. Registration No.	2906558	Application Date	09/19/2003
Registration Date	11/30/2004	Foreign Priority Date	NONE
Word Mark	BLIMPIE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1998/04/01 First Use In Commerce: 1998/04/01 potato chips Class 030. First use: First Use: 1997/01/00 First Use In Commerce: 1997/01/00 salad dressings		

U.S. Registration No.	2905006	Application Date	09/19/2003
Registration Date	11/23/2004	Foreign Priority Date	NONE
Word Mark	BLIMPIE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1998/04/01 First Use In Commerce: 1998/04/01 potato chips Class 030. First use: First Use: 1997/01/00 First Use In Commerce: 1997/01/00		

	salad dressings		
U.S. Registration No.	2851496	Application Date	05/08/2002
Registration Date	06/08/2004	Foreign Priority Date	NONE
Word Mark	I WANT MY BLIMPIE		
Design Mark	I WANT MY BLIMPIE		
Description of Mark	NONE		
Goods/Services	<p>Class 030. First use: First Use: 2003/10/03 First Use In Commerce: 2003/10/03 prepared meat and fish sandwiches and other sandwiches, breakfast food combination sandwiches consisting of scrambled eggs, sausage, bacon, ham and cheese, all for consumption on or off the premises</p> <p>Class 043. First use: First Use: 2002/05/06 First Use In Commerce: 2002/05/06 restaurant services, carry out restaurant services, catering services</p>		
U.S. Registration No.	2195438	Application Date	07/25/1997
Registration Date	10/13/1998	Foreign Priority Date	NONE
Word Mark	BLIMPIE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 029. First use: First Use: 1964/00/00 First Use In Commerce: 1964/00/00 meats and processed foods, namely, prepared chicken; prepared fish; prepared steak; prepared seafood, chicken, turkey and tuna fish salads; soups; chili; sausage patties; scrambled eggs; hamburger; potato chips sold as a part of a combination meal; meat balls; and pickles all of which are for consumption on and off the premises</p> <p>Class 030. First use: First Use: 1964/00/00 First Use In Commerce: 1964/00/00 breakfast food combination sandwiches consisting of scrambled eggs, sausage, bacon, ham and cheese for consumption on and off the premises</p>		
U.S. Registration No.	2120796	Application Date	09/14/1995
Registration Date	12/16/1997	Foreign Priority Date	NONE
Word Mark	BLIMPIE SUBS & SALADS		

Design Mark			
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Description of Mark	NONE		
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Goods/Services	Class 029. First use: First Use: 1992/00/00 First Use In Commerce: 1992/00/00 garden salads, chef salads, and potato salads Class 030. First use: First Use: 1992/00/00 First Use In Commerce: 1992/00/00 prepared meat and fish sandwiches and other sandwiches, macaroni salads		
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U.S. Registration No.	2011843	Application Date	09/14/1995
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Registration Date	10/29/1996	Foreign Priority Date	NONE
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Word Mark	BLIMPIE BEST		
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Design Mark			
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Description of Mark	NONE		
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Goods/Services	Class 030. First use: First Use: 1970/00/00 First Use In Commerce: 1970/00/00 prepared meat and fish sandwiches and other sandwiches		
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U.S. Registration No.	2007989	Application Date	08/11/1995
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Registration Date	10/15/1996	Foreign Priority Date	NONE
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Word Mark	BLIMPIE SUBS & SALADS		
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Design Mark			
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Description of Mark	NONE		
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Goods/Services	Class 042. First use: First Use: 1964/00/00 First Use In Commerce: 1964/00/00 restaurant services		
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U.S. Registration	1256296	Application Date	10/10/1978
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No.			
Registration Date	11/01/1983	Foreign Priority Date	NONE
Word Mark	BLIMPIE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1964/04/04 First Use In Commerce: 1964/04/04 Prepared Meat, Fish, and Other Food Sandwiches for Consumption On or Off the Premises Class 042. First use: First Use: 1964/04/04 First Use In Commerce: 1964/04/04 Restaurant Services		

U.S. Registration No.	1221085	Application Date	10/04/1978
Registration Date	12/21/1982	Foreign Priority Date	NONE
Word Mark	BLIMPIE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1964/04/04 First Use In Commerce: 1964/04/04 Prepared Meat, Fish and Other Food Sandwiches for Consumption On or Off the Premises Class 042. First use: First Use: 1964/04/04 First Use In Commerce: 1964/04/04 Restaurant Services		

Attachments	<p>78503831#TMSN.jpeg (1 page)(bytes) 78377772#TMSN.jpeg (1 page)(bytes) 78636751#TMSN.jpeg (1 page)(bytes) 78414378#TMSN.jpeg (1 page)(bytes) 78414362#TMSN.jpeg (1 page)(bytes) 78302910#TMSN.jpeg (1 page)(bytes) 76404978#TMSN.gif (1 page)(bytes) 74736791#TMSN.gif (1 page)(bytes) 74714398#TMSN.gif (1 page)(bytes) 73188080#TMSN.gif (1 page)(bytes) Notice of Opposition.pdf (8 pages)(46426 bytes) Exhibit A to Notice of Opposition.pdf (15 pages)(474659 bytes) Exhibit B to Notice of Opposition.pdf (7 pages)(519304 bytes)</p>
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/rlm/
Name	Renee L. Mitchell
Date	03/04/2009

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

KBI HOLDINGS, L.L.C.,

Opposer,

v.

BBK TOBACCO & FOODS, LLP, dba
HBI INTERNATIONAL,

Applicant.

Mark: BLIMPIE (IC 34)

Application Serial No.: 77/535,130

Filing Date: July 30, 2008

Publication Date: November 4, 2008

NOTICE OF OPPOSITION

In the matter of Application Serial No. 77/535,130 filed July 30, 2008, by BBK Tobacco & Foods, LLP, dba HBI International (“Applicant”), an Arizona limited liability partnership, Joshua D. Kesselman, General Partner and/or BBK Tobacco & Food Products, LLC, General Partner, with offices at 3315 W. Buckeye Road, Suite B, Phoenix, Arizona, to register BLIMPIE for use in connection with cigar humidifiers in IC 34, which was published in the *Official Gazette* on November 4, 2008. The Trademark Trial and Appeal Board (“Board”) granted an extension to oppose until March 4, 2009.

KBI Holdings, L.L.C. (“Opposer”), an Arizona limited liability company, having its principal place of business at 9311 East Via de Ventura, Scottsdale, Arizona 85258 believes that it will be damaged by registration of the Applicant’s BLIMPIE mark and opposes the same.

The grounds for this opposition are as follows:

1. Opposer has used the BLIMPIE trademark for approximately 45 years in connection with a variety of food products and restaurant services.

2. Opposer is the owner of the famous BLIMPIE trademark, including the following federal registrations:

<u>Mark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Goods/Services</u>
BLIMPIE SNACK SHACK	3,262,105	July 10, 2007	Restaurant services in IC 43
BLIMPIE XPRESS	3,261,911	July 10, 2007	Restaurant services, carry out restaurant services, catering services in IC 43
BLIMPIE design	3,153,304	October 10, 2006	Salads except macaroni, rice and pasta salads in IC 29; Prepared meat, fish and other food sandwiches, consisting of roast beef, ham, chicken, tuna, turkey, steak, bacon, pastrami and corned beef, breakfast food combination sandwiches consisting of scrambled eggs, sausage, bacon, ham and cheese, all for consumption on or off the premises in IC 30; Restaurant services, carry out restaurant services, catering services in IC 43
THE BLIMPIE BLUFFIN	3,008,697	October 25, 2005	Hot breakfast sandwiches, namely, egg sandwiches; egg and cheese sandwiches; egg and ham sandwiches; egg, cheese and ham sandwiches; egg and sausage sandwiches; egg, cheese and sausage sandwiches; egg and bacon sandwiches; egg, cheese and bacon sandwiches; and a combination of any of the aforesaid sandwiches in IC 30
BLIMPIE BLAST	2,997,499	September 20, 2005	Prepared meat, fish and other sandwiches in IC 30
BLIMPIE	2,906,558	November 30, 2004	Potato chips in IC 29; Salad dressings in IC 30
BLIMPIE design	2,905,006	November 23, 2004	Potato chips in IC 29; Salad dressings in IC 30

I WANT MY BLIMPIE	2,851,496	June 8, 2004	Prepared meat and fish sandwiches and other sandwiches, breakfast food combination sandwiches consisting of scrambled eggs, sausage, bacon, ham and cheese, all for consumption on or off the premises in IC 30; Restaurant services, carry out restaurant services, catering services in IC 43
BLIMPIE	2,195,438	October 13, 1998	Meats and processed foods, namely, prepared chicken; prepared fish; prepared steak; prepared seafood, chicken, turkey and tuna fish salads; soups; chili; sausage patties; scrambled eggs; hamburger; potato chips sold as part of a combination meal; meat balls; and pickles all of which are for consumption on and off the premises in IC 29; Breakfast food combination sandwiches consisting of scrambled eggs, sausage, bacon, ham and cheese for consumption on and off the premises in IC 30
BLIMPIE SUBS & SALADS design	2,120,796	December 16, 1997	Garden salads, chef salads, and potato salads in IC 29; Prepared meat and fish sandwiches and other sandwiches, macaroni salads in IC 30
BLIMPIE BEST	2,011,843	October 29, 1996	Prepared meat and fish sandwiches and other sandwiches in IC 30
BLIMPIE SUBS & SALADS design	2,007,989	October 15, 1996	Restaurant services in IC 42
BLIMPIE	1,256,296	November 1, 1983	Prepared meat, fish, and other food sandwiches for consumption on or off the premises in IC 30; restaurant services in IC 42

BLIMPIE design	1,221,085	December 21, 1982	Prepared meat, fish and other food sandwiches for consumption on or off the premises in IC 30; Restaurant services in IC 42
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True and correct copies of the Certificates of Registration for the foregoing marks are attached hereto as Exhibit “A,” and incorporated herein by reference.

3. Opposer’s Registration Nos. 1,221,085, 1,256,296, 2,007,989, 2,011,843, 2,120,796 and 2,195,438 are all valid, subsisting, incontestable and renewed.

4. Opposer also has common law rights to the BLIMPIE mark and various derivatives of the BLIMPIE mark used on a variety of products and services, many of those uses arising through licenses.

5. The BLIMPIE marks listed in Paragraphs 1 through 3 constitute the family of BLIMPIE marks.

6. Opposer has for approximately 45 years continuously used and extensively advertised the BLIMPIE trademark and the family of BLIMPIE marks in connection with approximately 1,600 restaurant locations throughout the United States.

7. Opposer owns and maintains a BLIMPIE website to promote its products and services at www.blimpie.com and has entered into a marketing relationship with race car driver Charles Hall. The “blimpie.com” website displays Opposer’s BLIMPIE marks and is accessible to franchisees, potential franchisees and the general public. Opposer’s BLIMPIE mark also appears on the race car driven by Charles Hall, which appears at venues across the United States and in televised races. True and correct copies of pages from the “blimpie.com” website are attached hereto as Exhibit “B,” and incorporated herein by reference.

8. Opposer’s BLIMPIE mark is used in connection with the third largest sub-sandwich chain in the United States.

9. Opposer’s restaurants using the BLIMPIE mark are recognized as a leading brand, as evidenced by, among others, the following rankings: #128 on *Restaurant &*

Institution's 2008 "Top 400 Restaurant Chains" list and # 46 on the 2008 "America's Top Global Franchises" list in *Entrepreneur* magazine.

10. By virtue of Opposer's and its licensees' continuous and substantially exclusive and extensive use in commerce of the BLIMPIE marks, and the commercial success of the products and services provided under the BLIMPIE marks, Opposer's BLIMPIE marks have come to have significance in the mind of those in the restaurant industry and the general public as an indicator of the products and services originating with, sponsored by, or otherwise associated with Opposer, and no other person or entity.

11. On information and belief, Applicant is an Arizona limited liability partnership with offices at 3315 W. Buckeye Road, Suite B, Phoenix, Arizona 85009.

12. On information and belief, Applicant filed Application Serial No. 77/535,130 to register BLIMPIE as a trademark for use in connection with cigar humidifiers in International Class 34 based on a first use date of May 1, 2007 and first use in commerce date of November 15, 2007.

13. The filing date of Opposer's applications for its BLIMPIE mark, which issued as the registrations relied on herein, as well as the date of issuances of such registrations, long predate the filing date of the application herein opposed. Opposer has superior and paramount rights in the BLIMPIE mark as compared to Applicant. There is no issue of priority concerning Application Serial No. 77/535,130.

14. The BLIMPIE mark was famous, highly distinctive, and recognized by the public as identifying the products and services of Opposer prior to Applicant's filing date.

15. Applicant's BLIMPIE mark is identical to Opposer's BLIMPIE mark.

16. Applicant's mark is similar in sight, sound, and commercial impression to Opposer's BLIMPIE trademark, the family of BLIMPIE marks, and the individual derivative marks that comprise Opposer's family of BLIMPIE marks.

17. Upon information and belief, Applicant's products are sold in convenience and other retail locations, similar to certain locations where Opposer's BLIMPIE marks may be found.

18. Upon information and belief, some of Applicant's consumers and target consumers overlap with Opposer's consumers and target consumers.

19. Opposer enjoys substantial and exclusive goodwill and reputation in connection with its BLIMPIE mark and the family of BLIMPIE marks. This goodwill and reputation will be harmed by the use and registration of the BLIMPIE mark sought to be registered by Applicant.

20. Applicant's BLIMPIE mark is identical to Opposer's BLIMPIE marks and is likely to create confusion, mistake, or to deceive as to the source of origin of Applicant's goods as originating with or being sponsored, approved, endorsed or licensed by, affiliated or associated with, or in some other way legitimately connected to Opposer.

21. The granting of a trademark registration for the BLIMPIE mark to Applicant would be contrary to 15 U.S.C. §1052(d) and will violate or diminish the prior and superior rights of Opposer in its BLIMPIE mark and the family of BLIMPIE marks.

22. The granting of a trademark registration for the BLIMPIE mark to Applicant would also be contrary to 15 U.S.C. §§ 1052 and 1125(c) and will dilute or is likely to dilute the distinctive quality of Opposer's famous BLIMPIE mark and the family of BLIMPIE marks.

23. Opposer will be damaged if Applicant obtains a registration of the BLIMPIE mark because Applicant will obtain statutory rights in the mark in violation and in derogation of the established prior rights of Opposer in its BLIMPIE mark and the family of BLIMPIE marks.

WHEREFORE, Opposer prays that registration of the BLIMPIE mark in Application Serial No. 77/535.130 be refused and that this opposition be sustained.

Dated: March 4, 2009.

Respectfully Submitted,

RYLEY CARLOCK & APPLEWHITE

By /Renee L. Mitchell/

Renee L. Mitchell, Esq.

Jessica A. Benford, Esq.

One North Central Avenue, Suite 1200

Phoenix, Arizona 85004-4417

Telephone: 602-258-7701

Fax: 602-257-6917

Email: rmitchell@rcalaw.com

Attorneys for Opposer

CERTIFICATE OF ELECTRONIC TRANSMISSION AND SERVICE

I hereby certify that on March 4, 2009, a true and correct copy of the foregoing Notice of Opposition was electronically filed with the Trademark Trial and Appeal Board through the ESTTA system and was served on Applicant by email and First Class Mail, postage pre-paid, addressed as follows:

BBK Tobacco & Foods, LLP, dba HBI International
Attn: Edward Earle, Esq., General Counsel
3315 W. Buckeye Road, Suite B
Phoenix, AZ 85009
Email: edward.earle@hbiinternational.com

/Renee L. Mitchell/
Renee L. Mitchell

EXHIBIT “A”

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,262,105

Registered July 10, 2007

**SERVICE MARK
PRINCIPAL REGISTER**

**BLIMPIE SNACK
SHACK**

KBI HOLDINGS, L.L.C. (ARIZONA LTD LIAB
CO)

7730 E. GREENWAY ROAD

SUITE 104

SCOTTSDALE, AZ 85260

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

FIRST USE 3-31-2005; IN COMMERCE 3-31-2005.

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

OWNER OF U.S. REG. NOS. 1,221,085, 2,851,496,
AND OTHERS.

SN 78-503,831, FILED 10-21-2004.

GENE MACIOL, EXAMINING ATTORNEY

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

Reg. No. 3,261,911

United States Patent and Trademark Office

Registered July 10, 2007

**SERVICE MARK
PRINCIPAL REGISTER**

BLIMPIE XPRESS

KBI HOLDINGS, L.L.C. (ARIZONA LTD LIAB
CO)
7730 E. GREENWAY ROAD
SUITE 104
SCOTTSDALE, AZ 85260

OWNER OF U.S. REG. NOS. 1,256,296, 2,195,438,
AND OTHERS.

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

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

FIRST USE 3-31-2005; IN COMMERCE 3-31-2005.

SN 78-377,772, FILED 3-3-2004.

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

SALLY SHIH, EXAMINING ATTORNEY

Int. Cls.: 29, 30 and 43

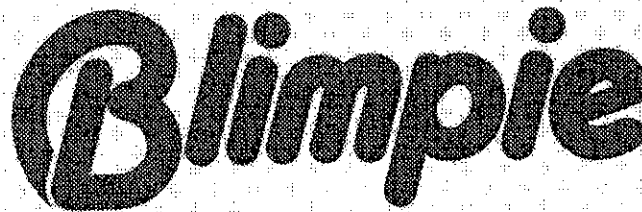
Prior U.S. Cls.: 46, 100 and 101

Reg. No. 3,153,304

United States Patent and Trademark Office

Registered Oct. 10, 2006

TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER

The logo for Blimpie, featuring the word "Blimpie" in a bold, rounded, sans-serif font. The letter "B" is significantly larger and more stylized than the other letters. The entire logo is set against a background of a fine grid of small dots.

KBI HOLDINGS, L.L.C. (ARIZONA LTD LIAB
CO)

7730 E. GREENWAY ROAD
SUITE 104
SCOTTSDALE, AZ 85260

FOR: SALADS EXCEPT MACARONI, RICE AND
PASTA SALADS, IN CLASS 29 (U.S. CL. 46).

FIRST USE 7-0-2004; IN COMMERCE 7-0-2004.

FOR: PREPARED MEAT, FISH AND OTHER
FOOD SANDWICHES, CONSISTING OF ROAST
BEEF, HAM, CHICKEN, TUNA, TURKEY, STEAK,
BACON, PASTRAMI AND CORNED BEEF; BREAK-
FAST FOOD COMBINATION SANDWICHES CON-
SISTING OF SCRAMBLED EGGS, SAUSAGE,
BACON, HAM AND CHEESE, ALL FOR CONSUMP-

TION ON OR OFF THE PREMISES, IN CLASS 30
(U.S. CL. 46).

FIRST USE 7-0-2004; IN COMMERCE 7-0-2004.

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

FIRST USE 4-0-2005; IN COMMERCE 4-0-2005.

OWNER OF U.S. REG. NOS. 1,221,085, 2,851,496
AND OTHERS.

SER. NO. 78-636,751, FILED 5-25-2005.

CHRISTOPHER BUONGIORNO, EXAMINING AT-
TORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 3,008,697

Registered Oct. 25, 2005

TRADEMARK
PRINCIPAL REGISTER

THE BLIMPIE
BLUFFIN

BLIMPIE INTERNATIONAL, INC. (NEW JERSEY
CORPORATION)
180 INTERSTATE NORTH PARKWAY, S.E.
SUITE #500
ATLANTA, GA 30339

FOR: HOT BREAKFAST SANDWICHES, NAME-
LY, EGG SANDWICHES; EGG AND CHEESE SAND-
WICHES; EGG AND HAM SANDWICHES; EGG,
CHEESE AND HAM SANDWICHES; EGG AND
SAUSAGE SANDWICHES; EGG, CHEESE AND
SAUSAGE SANDWICHES; EGG AND BACON
SANDWICHES; EGG, CHEESE AND BACON SAND-
WICHES; AND A COMBINATION OF ANY OF THE
AFORESAID SANDWICHES, IN CLASS 30 (U.S. CL.
46).

FIRST USE 0-0-1979; IN COMMERCE 0-0-1979.

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

OWNER OF U.S. REG. NOS. 1,221,085, 2,011,843
AND OTHERS.

SER. NO. 78-414,378, FILED 5-6-2004.

SALLY SHIH, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,997,499

Registered Sep. 20, 2005

**TRADEMARK
PRINCIPAL REGISTER**

BLIMPIE BLAST

BLIMPIE INTERNATIONAL, INC. (NEW JERSEY CORPORATION)

180 INTERSTATE NORTH PARKWAY, S.E.

SUITE #500

ATLANTA, GA 30339

FOR: PREPARED MEAT, FISH AND OTHER SANDWICHES, IN CLASS 30 (U.S. CL. 46).

FIRST USE 0-0-1991; IN COMMERCE 0-0-1991.

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

OWNER OF U.S. REG. NOS. 1,221,085, 2,011,843 AND OTHERS.

SER. NO. 78-414,362, FILED 5-6-2004.

SUELLEN HICKEY, EXAMINING ATTORNEY

Int. Cls.: 29 and 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,906,558

Registered Nov. 30, 2004

**TRADEMARK
PRINCIPAL REGISTER**

BLIMPIE

BLIMPIE INTERNATIONAL, INC. (NEW JERSEY CORPORATION)
180 INTERSTATE NORTH PARKWAY, S.E.
SUITE #500
ATLANTA, GA 30339

FOR: POTATO CHIPS, IN CLASS 29 (U.S. CL. 46).

FIRST USE 4-1-1998; IN COMMERCE 4-1-1998.

FOR: SALAD DRESSINGS, IN CLASS 30 (U.S. CL. 46).

FIRST USE 1-0-1997; IN COMMERCE 1-0-1997.

OWNER OF U.S. REG. NOS. 1,256,296, 2,195,438 AND OTHERS.

SER. NO. 78-302,927, FILED 9-19-2003.

GINA FINK, EXAMINING ATTORNEY

[TDR Home](#)

Int. Cls.: 29 and 30

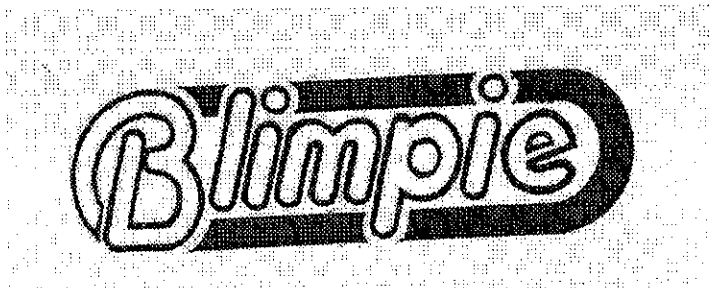
Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,905,006

Registered Nov. 23, 2004

TRADEMARK
PRINCIPAL REGISTER



BLIMPIE INTERNATIONAL, INC. (NEW JERSEY CORPORATION)
180 INTERSTATE NORTH PARKWAY, S.E., SUITE #500
ATLANTA, GA 30339

FIRST USE 1-0-1997; IN COMMERCE 1-0-1997.

OWNER OF U.S. REG. NOS. 1,221,085, 2,195,438 AND OTHERS.

FOR: POTATO CHIPS, IN CLASS 29 (U.S. CL. 46).

SER. NO. 78-302,910, FILED 9-19-2003.

FIRST USE 4-1-1998; IN COMMERCE 4-1-1998.

FOR: SALAD DRESSINGS, IN CLASS 30 (U.S. CL. 46).

GINA FINK, EXAMINING ATTORNEY

Int. Cls.: 30 and 43

Prior U.S. Cls.: 46, 100, and 101

Reg. No. 2,851,496

United States Patent and Trademark Office

Registered June 8, 2004

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**

I WANT MY BLIMPIE

BLIMPIE INTERNATIONAL, INC. (GEORGIA
CORPORATION)
1775 THE EXCHANGE
ATLANTA, GA 30339

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

FOR: PREPARED MEAT AND FISH SANDWI-
CHES AND OTHER SANDWICHES, BREAKFAST
FOOD COMBINATION SANDWICHES CONSIST-
ING OF SCRAMBLED EGGS, SAUSAGE, BACON,
HAM AND CHEESE, ALL FOR CONSUMPTION ON
OR OFF THE PREMISES, IN CLASS 30 (U.S. CL. 46).

FIRST USE 5-6-2002; IN COMMERCE 5-6-2002.

SN 76-404,978, FILED 5-8-2002.

FIRST USE 10-3-2003; IN COMMERCE 10-3-2003.

MIDGE BUTLER, EXAMINING ATTORNEY

Int. Cls.: 29 and 30

Prior U.S. Cl.: 46

Reg. No. 2,195,438

United States Patent and Trademark Office

Registered Oct. 13, 1998

**TRADEMARK
PRINCIPAL REGISTER**

BLIMPIE

CONZA, ANTHONY (UNITED STATES CITIZEN)
740 BROADWAY, SUITE 1201
NEW YORK, NY 10003 AND

SIEGEL, DAVID (UNITED STATES CITIZEN)
740 BROADWAY, SUITE 1201
NEW YORK, NY 10003 AND

METROPOLITAN BLIMPIE, INC. (NEW YORK CORPORATION)
170 SEVENTH AVENUE
NEW YORK, NY 10001

FOR: MEATS AND PROCESSED FOODS, NAMELY, PREPARED CHICKEN; PREPARED FISH; PREPARED STEAK; PREPARED SEAFOOD, CHICKEN, TURKEY AND TUNA FISH SALADS; SOUPS; CHILI; SAUSAGE PATTIES; SCRAMBLED EGGS; HAMBURGER; POTATO

CHIPS SOLD AS A PART OF A COMBINATION MEAL; MEAT BALLS; AND PICKLES ALL OF WHICH ARE FOR CONSUMPTION ON AND OFF THE PREMISES, IN CLASS 29 (U.S. CL. 46).

FIRST USE 0-0-1964; IN COMMERCE 0-0-1964.

FOR: BREAKFAST FOOD COMBINATION SANDWICHES CONSISTING OF SCRAMBLED EGGS, SAUSAGE, BACON, HAM AND CHEESE FOR CONSUMPTION ON AND OFF THE PREMISES, IN CLASS 30 (U.S. CL. 46).

FIRST USE 0-0-1964; IN COMMERCE 0-0-1964.

OWNER OF U.S. REG. NOS. 1,221,085, 2,011,843 AND OTHERS.

SER. NO. 75-330,553, FILED 7-25-1997.

HOWARD FRIEDMAN, EXAMINING ATTORNEY

Int. Cls.: 29 and 30

Prior U.S. Cl.: 46

Reg. No. 2,120,796

United States Patent and Trademark Office

Registered Dec. 16, 1997

TRADEMARK
PRINCIPAL REGISTER



CONZA, ANTHONY (UNITED STATES CITIZEN)
740 BROADWAY
NEW YORK, NY 10003 AND

SIEGEL, DAVID (UNITED STATES CITIZEN)
740 BROADWAY
NEW YORK, NY 10003 AND

METROPOLITAN BLIMPIE, INC. (NEW YORK CORPORATION)
370 SEVENTH AVENUE
NEW YORK, NY 10001

FOR: GARDEN SALADS, CHEF SALADS,
AND POTATO SALADS, IN CLASS 29 (U.S. CL. 46).

FIRST USE 0-0-1992; IN COMMERCE 0-0-1992.

FOR: PREPARED MEAT AND FISH SANDWICHES AND OTHER SANDWICHES, MACARONI SALADS, IN CLASS 30 (U.S. CL. 46).

FIRST USE 0-0-1992; IN COMMERCE 0-0-1992.

OWNER OF U.S. REG. NOS. 1,221,085, 1,256,296 AND OTHERS.

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

SER. NO. 74-736,791, FILED 9-14-1995.

JENNIFER RICHARD, EXAMINING ATTORNEY

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office **Reg. No. 2,011,843**
Registered Oct. 29, 1996

**TRADEMARK
PRINCIPAL REGISTER**

BLIMPIE BEST

CONZA, ANTHONY (UNITED STATES CITIZEN)
740 BROADWAY
NEW YORK, NY 10003 AND

SIEGEL, DAVID (UNITED STATES CITIZEN)
740 BROADWAY
NEW YORK, NY 10003 AND

METROPOLITAN BLIMPIE, INC. (NEW YORK CORPORATION)
370 SEVENTH AVENUE
NEW YORK, NY 10001

FOR: PREPARED MEAT AND FISH SANDWICHES AND OTHER SANDWICHES, IN CLASS 30 (U.S. CL. 46).

FIRST USE 0-0-1970; IN COMMERCE 0-0-1970.

OWNER OF U.S. REG. NOS. 1,221,085, 1,256,296 AND OTHERS.

SER. NO. 74-736,794, FILED 9-14-1995.

DONNA MIRMAN, EXAMINING ATTORNEY

Int. Cl.: 42

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

United States Patent and Trademark Office

Reg. No. 2,007,989

Registered Oct. 15, 1996

**SERVICE MARK
PRINCIPAL REGISTER**



CONZA, ANTHONY P. (UNITED STATES CITIZEN)
740 BROADWAY
NEW YORK, NY 10003 AND

SIEGEL, DAVID L. (UNITED STATES CITIZEN)
740 BROADWAY
NEW YORK, NY 10003 AND

METROPOLITAN BLIMPIE, INC. (NEW YORK CORPORATION)
7 PENN PLAZA
NEW YORK, NY 10001

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

FIRST USE 0-0-1964; IN COMMERCE 0-0-1964.

OWNER OF U.S. REG. NOS. 1,221,085 AND 1,256,296.

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

SER. NO. 74-714,398, FILED 8-11-1995.

JEFFREY R. COHEN, EXAMINING ATTORNEY

Int. Cls.: 30 and 42

Prior U.S. Cls.: 46 and 100

United States Patent and Trademark Office

Reg. No. 1,256,296

Registered Nov. 1, 1983

**TRADEMARK
SERVICE MARK
Principal Register**

BLIMPIE

Anthony Conza, David Siegel and Peter DeCarlo
(United States citizens)
720 5th Ave.
New York, N.Y. 10019

For: PREPARED MEAT, FISH, AND OTHER
FOOD SANDWICHES FOR CONSUMPTION ON
OR OFF THE PREMISES, in CLASS 30 (U.S. Cl.
46).

First use Apr. 4, 1964; in commerce Apr. 4, 1964.

For: RESTAURANT SERVICES, in CLASS 42
(U.S. Cl. 100).

First use Apr. 4, 1964; in commerce Apr. 4, 1964.

Owner of U.S. Reg. No. 840,938.

Ser. No. 188,686, filed Oct. 10, 1978.

RICHARD A. STRASER, Examining Attorney

Int. Cls.: 30 and 42

Prior U.S. Cls.: 46 and 100

United States Patent and Trademark Office

Reg. No. 1,221,085

Registered Dec. 21, 1982

**TRADEMARK
SERVICE MARK
Principal Register**

The logo for Blimpie is written in a bold, stylized, rounded font. The letters are thick and black, with a slight shadow or outline effect. The word "Blimpie" is slanted upwards from left to right. The 'B' is particularly large and rounded, and the 'ie' at the end are also rounded and connected.

Anthony Conza, David Siegel and Peter DeCarlo
(United States citizens)
720 5th Ave.
New York, N.Y. 10019

For: PREPARED MEAT, FISH AND OTHER
FOOD SANDWICHES FOR CONSUMPTION ON
OR OFF THE PREMISES, in CLASS 30 (U.S. Cl.
46).

First use Apr. 4, 1964; in commerce Apr. 4, 1964.
For: RESTAURANT SERVICES, in CLASS 42
(U.S. Cl. 100).

First use Apr. 4, 1964; in commerce Apr. 4, 1964.

Ser. No. 188,080, filed Oct. 4, 1978.

RICHARD A. STRASER, Examining Attorney

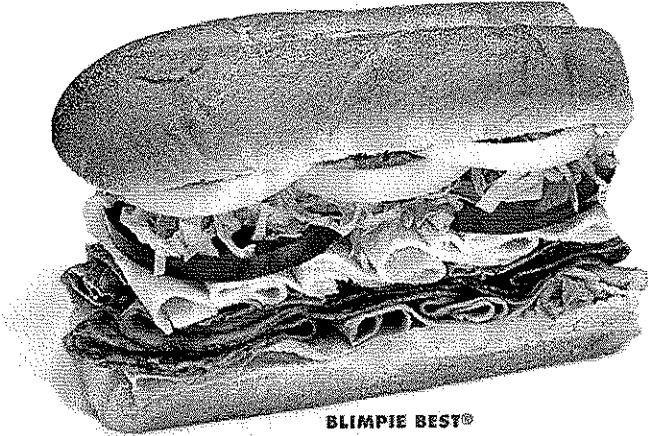
EXHIBIT “B”

BLIMPIE

America's Sub Shop

WHERE'S YOUR BLIMPIE?
Zip or City and State

- WELCOME
- MENU
- SPECIAL OFFERS
- CATERING
- ABOUT BLIMPIE
- FUN ZONE
- OWN A STORE



BLIMPIE BEST®

Welcome to BLIMPIE!

Since 1964, Blimpie has been making fresh, wholesome subs that are good for you, your family and friends. For the last 44 years we haven't changed what's important. We've held true to those beliefs and we are confident in what we do. Whatever comes next, you can count on Blimpie to be right there, too - that's why we are America's Sub Shop. >>>

- 1
- 2
- 3

For any event where family, friends or co-workers gather!
CATERING >>>
5 12" SUBS
We slice 'em fresh!
SPECIAL OFFERS >>>
CHARLES HALL joins the
BLIMPIE TEAM!
Blimpie **WHAT'S NEW >>>**

Moments in Blimpie History



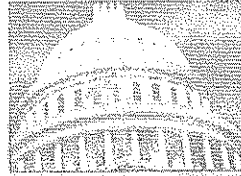
April 4, 1964 - Blimpie is born in Hoboken, New Jersey.



January 15, 1967 - The very 1st Super Bowl is played. Blimpie was there.



July 21, 1969 - Neil Armstrong walks on the moon. Blimpie was there.



July 4, 1976 - America celebrates her Bicentennial. Blimpie was there.



1980 - America wins the Olympic Gold in Hockey. Blimpie was there.

Blimpie® has been a part of the American landscape for over 40 years. We stack the finest quality meats, cheeses, and toppings on freshly baked breads for our guests. The tradition of serving the best subs anywhere continues at your neighborhood Blimpie® today. Taste the Blimpie® difference.

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BLIMPIE

America's Sub Shop

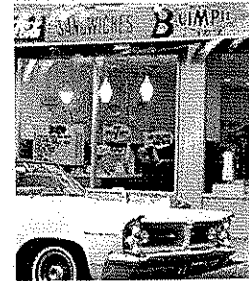
WHERE'S YOUR BLIMPIE?

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[The Blimpie Story](#) | [Our Culture](#) | [What's New](#) | [Press Room](#) | [Contact Us](#)

ABOUT BLIMPIE

Blimpie's roots can be traced back to three friends armed with an entrepreneurial spirit and a business itch to introduce what the world now knows as the beloved submarine sandwich. After months of research and planning, all the components were in place for them to begin their journey of becoming business owners, with one exception - they needed a name. With a desire to set themselves apart from their competition, they decided to call their sandwiches something other than submarines or hoagies. Hoping to find some inspiration, they paged through a dictionary until they came to the word "blimp" and a picture resembling the healthy, generous-size sandwiches they saw as their competitive edge. That was the "eureka" moment, and the Blimpie sandwich and restaurant chain was born! On April 4, 1964, the three friends opened for business in Hoboken, N.J.



>> [VIEW COMMERCIAL](#)

Today with more than four decades of history and locations from coast to coast, the Blimpie brand continues to grow with the strength of its past propelling it forward. Though times have changed since those three friends began their journey, enjoying a meal at Blimpie is still like returning to your neighborhood deli. With fresh sliced meats and high quality ingredients, Blimpie keeps the dream of its founders alive while still setting itself apart from the competition.

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BLIMPIE

America's Sub Shop

WHERE'S YOUR BLIMPIE?

WELCOME MENU SPECIAL OFFERS CATERING ABOUT BLIMPIE FUN ZONE OWN A STORE

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SEARCH

ABOUT BLIMPIE THE BLIMPIE STORY

Three teenagers met at St. Peter's Prep in Jersey City, N.J. Throughout their high school years, they became close friends and began talking about the possibility of starting a business. Like many great entrepreneurs, they had no idea what business to be in, but only knew that they wanted to go into business together.

Armed with a collective business itch, Tony Conza, Peter DeCarlo and Angelo Baldassare started buying women's hosiery wholesale and selling it to family members and friends. The consummate salesman in the group branched out, selling pots and pans door-to-door. The quiet thinker tried his hand at over-the-counter trading on Wall Street. And the third entrepreneur was successful running church hall dances.

A few years pass and one of the young men asked the others a fateful question; "Hey, have you guys heard about those sandwiches they call submarines?" The next morning, the trio leave their homes in north Jersey and head down the Garden State Parkway to Point Pleasant, a little shop serving long, strangely-shaped sandwiches. It was lunchtime and the place was packed. By the time they got to the fresh meat slicer, they had begun to understand all the fuss. A young man behind the slicer was taking orders, cutting fresh Italian bread down the middle and placing the fresh meats on the bread before sliding the sandwich down to the dressing station. There, another added shredded lettuce, sliced tomatoes, diced onions, oil, vinegar and spices. The three men stared, mouths watering, waiting to chomp these so-called submarines.

At that moment, the three young men with entrepreneurial dreams realized they were on to something very special.

On the way home, they do what entrepreneurs do; they dream and their words fill the car. They agree that people in north Jersey would love this "salad on a sandwich" concept. With a simple menu, they could open a chain of restaurants.

But amidst their enthusiasm, reality quickly set in. None of the three men had any money. Nor did they know anything about the restaurant business. But, like all strong-willed entrepreneurs, they were not deterred in the pursuit of a dream to go into business together because now they had that elusive big idea.

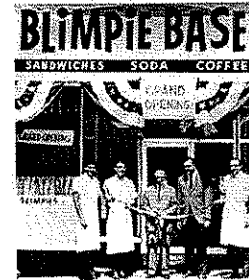
Eventually, they decided Hoboken was the ideal place to open a store because people there loved trying new things. Another bonus was they all had family in the area to provide support.

They considered applying for a bank loan backed by the Small Business Administration. They considered the gamut of other financing possibilities, including venture-capital firms, high-risk lenders, and family and friends. Back then, there were no credit card companies through which entrepreneurs could finance their startup dreams. In the end, they decided to approach a friend in the garment business, offering him 15 percent of net profits in exchange for a \$2,000 investment. He agrees and their dream turned into a reality.

Before opening their first store, the three men revisited the owner of the sub shop in Point Pleasant where they had first tasted those so-called submarines. They promised not to compete with him, but needed his advice, which they gratefully received.

With financing and guidance in hand, all they needed was a name. To help set them apart, they wanted to call their sandwiches something other than subs, submarine,s or hoagies. So they went through a dictionary until they came to the word "blimp" and a picture resembling the generous-size sandwiches they wanted to make. This was the "eureka" moment, and the BLIMPIE sandwich and restaurant chain was born!

On April 4, 1964, the three men opened for business on Washington St. in Hoboken. The consummate salesman worked the slicer. The quiet thinker manned the dressing station. And the third entrepreneur took the cash. By the time the door closed at 9 p.m. \$295 had been run up - with sandwich prices



ranging from 35 to 95 cents. Although exhausted, the business partners still had to clean up and get ready for the next day. That's when the quiet thinker faced the reality of the moment and of his future.

"Investing in a business like BLIMPIE, is not like a mutual fund. It's more like having a baby. When you invest in a mutual fund, you give your money to some financial outfit, then sit back and hope that it makes money for you. Having a baby of course, is different. Once that baby comes into your life, it never goes away. If you get tired, it doesn't go away. If you want to take the weekend off, it doesn't go away. If you want a vacation, it doesn't go away. However, if you nurture the baby, care for it, and help it grow, one day it will take care of itself - and maybe even take care of you." (Conza, 2000)

*Parts of this company history were paraphrased from Success: It's A Beautiful Thing. Lessons On Life And Business From The Founder Of BLIMPIE International © 2000 by Tony Conza.

BLIMPIE

America's Sub Shop

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Zip or City and State

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Charles Hall Racing

FUN ZONE

CHARLES HALL RACING

Blimpie is Off to the Races!

Reflecting Blimpie's position as a pacesetter for other sandwich shops across the country, the Blimpie brand announced today that it has entered into a marketing partnership with race car driver Charles Hall, a rising star of the sport.

Hall, the current point leader in the Star Mazda Championship presented by Goodyear, will represent Blimpie and its theme of "America's Sub Shop" in races in the United States and Canada, said Kate Unger, Blimpie's vice president of marketing.

Hall's car will be affixed with the brand's logos and local store owners will take the partnership a step further by sampling product at regional races across the country.

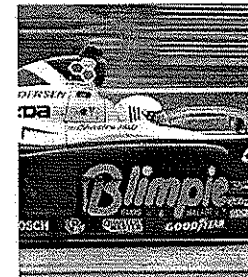
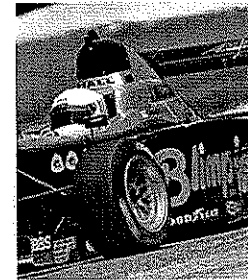
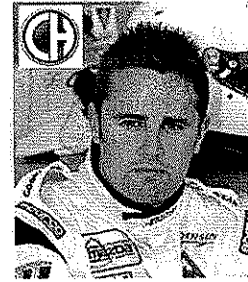
The Star Mazda Championship Series is a proven training ground for future open-wheel superstars. Supported by both Mazda and Goodyear, all of its races are televised on SPEED.

Hall, a native of Sheffield, England, was on the short list for a Formula 1 test seat in 2005 when he was seriously injured in a traffic accident caused by a drunk driver. Despite several operations and a great deal of physical therapy, Hall never gave up on his dream to return to the sport he loves. Now in even better condition than he was prior to the accident, he has found a home with Andersen Racing, a Palmetto, Fla.-based team that is widely respected for its success in nurturing the careers of future open-wheel stars. It is the development team of IndyCar's Rahal Letterman Racing, owned by Indy 500 winner Bobby Rahal and late-night talk show host David Letterman.

Despite being a rookie in the Star Mazda series, Hall finished second in the first two races of the year. He led every lap of the third and most recent race, held at historic Watkins Glen International in Watkins Glen, N.Y. on June 7, to post his first series victory and propel him into the lead in the point standings.

We are thrilled with Charles's success, and hope to build upon our relationship with him and Andersen Racing as he progresses throughout this racing career," said Unger. "Racing is one of the fastest-growing sports to follow so this is a wonderful way to introduce more people to Blimpie."

"I'm honored to be representing Blimpie," said Hall. "I will do my best to represent them on and off the track. I love their sandwiches, especially their hot, Panini-grilled Ciabatta sandwiches. They have a bevy of options to sustain me throughout my rigorous training and racing schedule."



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OWN A STORE

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3. [Investment Requirements](#)
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#27 on the 2008 'Franchise 500' list in Entrepreneur magazine

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BECOME A FRANCHISEE

How Would You Like to Own Your Own Blimpie?

Blimpie is a respected brand among the quick-service restaurant category. Renowned for offering only the highest quality products for more than four decades, people everywhere recognize the quality associated with Blimpie and are more likely to be repeat customers because of it.

With our franchisees success in mind, we are constantly moving forward with new ways to grow their business and increase our products' reach. From merchandising and décor enhancements, to providing more choices and quality menu items, we are continually looking for ways to meet the ever changing needs of our customers. We have also developed a highly touted catering program that is perfect for any meeting, party or event enabling our franchisees to increase exposure, reach new customers and develop great relationships within their community.

Blimpie and its parent company, Kahala, are proud of the extensive support we provide our franchisees. When you join Blimpie, you'll never be alone, because we'll be with you every step of the way. To help ensure your journey to success is a smooth one, our dedicated Blimpie team will assist you with important pre-opening steps such as site selection, design and construction, as well as a grand opening plan. Our proven operating system also aids in your success by allowing you to benefit from our years of experience. We keep the cost of entry and operating costs as low as possible to maximize your potential for success.

[» VIEW FRANCHISE OVERVIEW](#)



"I've been with Blimpie since 1997 and still believe that Blimpie has the best subs! The combination of bread baked fresh daily with sandwiches all sliced fresh to order and exceptional service is our recipe for success!"

Brian Corsotti
East Windsor, CT

[CONTACT US](#)