

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

\_\_\_\_\_  
WHATAPARTNERSHIP, L.P., )  
 )  
Petitioner )  
 )  
v. )  
 )  
SUITE ONE STAFFING GROUP, INC. )  
 )  
Respondent. )  
\_\_\_\_\_

Cancellation No. \_\_\_\_\_

2005 AUG 18 A 10:30  
US PATENT &  
TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD  
RECEIVED

**PETITION TO CANCEL**

WhataPartnership, L.P., a limited partnership organized under the laws of Delaware, with offices located at 300 Delaware Avenue, Suite 900, Wilmington, DE 19801, hereby petitions the Trademark Trial and Appeal Board to cancel Registration No. 2,480,278 – WHAT-A-RACK (“Respondent’s mark”) for “restaurant services,” registered in the Patent and Trademark Office, Principal Register, on August 21, 2001, by Suite One Staffing Group, Inc. (“Respondent”). In support of this Petition, WhataPartnership, L.P. states that it is and will continue to be damaged by the registration of Respondent’s mark and petitions to cancel the subject registration on the following grounds:

- A. Likelihood of Confusion between Respondent’s mark and Petitioner’s WHATABURGER and family of WHATA marks identified more fully below.
- B. Respondent’s abandonment of use of Respondent’s mark and Respondent’s corresponding Registration No. 2,480,278.

**A. LIKELIHOOD OF CONFUSION**

1. WhataPartnership, L.P. is the owner of all right, title and interest in and to the trademarks and service marks pleaded in this Petition to Cancel and licenses to Whataburger,



08-18-2005

Inc., a Texas corporation with principal offices at 4600 Parkdale Drive, Corpus Christi, Texas 78411-9230, the right to operate and to authorize franchisees to operate restaurants using the pleaded trademarks and service marks. (WhataPartnership, L.P. and Whataburger, Inc. are hereinafter collectively referred to as "Petitioner.")

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

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

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

5. Petitioner, prior to Respondent's adoption, use and registration of Respondent's mark, developed a family of WHATA marks to its identify food products as well as collateral goods such as printed materials and clothing.

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

7. Petitioner is the owner of all right, title and interest in and to the following federal service mark and trademark registrations, which presently are valid and subsisting in law. Petitioner will submit current status and title copies, prepared by the Patent and Trademark

Office, of its pleaded registrations at the appropriate time in this proceeding. Photocopies are attached hereto as Exhibit A.

- (a) Registration No. 652,137 – **WHATABURGER** for “hamburger sandwich,” registered on the Principal Register September 24, 1957.
- (b) Registration No. 891,082 – **WHATABURGER** for “restaurant services and drive in restaurant services,” registered on the Principal Register May 12, 1970.
- (c) Registration No. 1,011,927 – **WHATABURGER** for “hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches” and “restaurant and drive-in restaurant services,” registered on the Principal Register on May 27, 1975.
- (d) Registration No. 1,011,928 – **WHATABURGER & W Design** for “hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches” and “restaurant and drive-in restaurant services,” registered on the Principal Register on May 27, 1975.
- (e) Registration No. 1,014,196 – **WHATABURGER JR.** for “prepared hamburger sandwich for consumption on or off premises,” registered on the Principal Register on June 24, 1975.
- (f) Registration No. 1,116,918 – **WHATAMEAL** for “prepared meal consisting of a hamburger sandwich, french fries and a beverage for consumption on or off the premises,” registered on the Principal Register April 24, 1979.
- (g) Registration No. 1,206,344 – **WHATACATCH** for “breaded fish fillets suitable for fish sandwiches” and “prepared fish sandwich for consumption on or off the premises,” registered on the Principal Register August 24, 1982.
- (h) Registration No. 2,150,703 – **WHATASIZE IT!** for “restaurant services featuring a prepared meal containing french fries and a soft drink for consumption on or off the premises,” registered on the Principal Register April 14, 1998.
- (i) Registration No. 2,160,285 – **WHATACHICK’N** for “chicken sandwich,” registered on the Principal Register May 26, 1998.
- (j) Registration No. 2,335,590 – **WHATABURGER** for “restaurant services,” registered on the Principal Register March 28, 2000.
- (k) Registration No. 2,372,372 – **WHATAKIDS** for “clothing for children, namely, shirts, polo shirts, t-shirts, dresses, overalls, onesies, baseball caps and hats,” registered on the Principal Register August 1, 2000.

- (l) Registration No. 2,409,945 – **WHATACHILL** for “frozen flavored fruit drinks offered for sale exclusively through applicant’s restaurants,” registered on the Principal Register December 5, 2000.
- (m) Registration No. 2,418,380 – **WHATAGUY** for “restaurant services,” registered on the Principal Register January 2, 2000.
- (n) Registration No. 2,432,191 – **WHATAKIDS** for “restaurant services,” registered on the Principal Register February 27, 2001.
- (o) Registration No. 2,519,854 – **WHATACOMIX** for “comic books and children’s activity books,” registered on the Principal Register December 18, 2001.
- (p) Registration No. 2,534,527 – **WHATAPLACE! WHATATASTE!** for “restaurant services,” registered on the Principal Register January 29, 2002.
- (q) Registration No. 2,757,109 – **WHATABURGER** for “charitable fundraising services,” registered on the Principal Register August 26, 2003.
- (r) Registration No. 2,846,139 – **WHATABLENDERS** for “milk shake drinks, bases for milk shake drinks and candy flavored toppings therefor, registered on the Principal Register May 25, 2004.

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

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

10. On information and belief, Respondent provides restaurant services under Respondent’s mark.

11. Respondent’s services are identical and/or otherwise closely related to Petitioner’s goods and services offered under Petitioner’s **WHATABURGER** and **WHATA** marks.

12. Respondent's mark so resembles Petitioner's WHATABURGER and WHATA marks as to be likely, when applied to Respondent's services, to cause confusion, mistake and to deceive.

13. Respondent's mark is confusingly similar to Petitioner's WHATABURGER and WHATA marks, so that continued registration of Respondent's mark would be inconsistent with and damaging to Petitioner's prior and exclusive rights in and to its WHATABURGER and WHATA marks in connection with the goods and services with which they are used.

14. Petitioner will continue to be damaged by the registration of Respondent's mark.

**B. ABANDONMENT**

15. Petitioner realleges and incorporates by reference Paragraphs 1 through 14 of this Petition to Cancel.

16. On information and belief, Respondent has made no commercial use of Respondent's mark in connection with restaurant services for at least three years.

17. On information and belief, Respondent's non-use and/or discontinuance of use of Respondent's mark in connection with restaurant services has been without the intention to resume use of Respondent's mark in connection with the stated services.

18. On information and belief, Respondent has abandoned use of Respondent's mark and Respondent's corresponding Registration No. 2,480,278.

WHEREFORE, Petitioner prays that its Petition be sustained and that Registration No. 2,480,278 be cancelled.

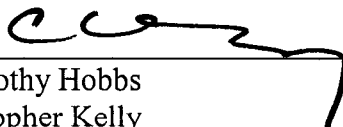
Petitioner hereby authorizes the filing fee of THREE HUNDRED DOLLARS (\$300.00) and any additional charges necessary to institute this proceeding to be debited from the deposit account of Petitioner's counsel, Wiley, Rein & Fielding, Account No. 501129.

This Petition to Cancel is being filed by the undersigned attorneys at law, duly authorized to represent Petitioner in this proceeding, pursuant to Trademark Rule 2.111(b).

Respectfully submitted,

WHATAPARTNERSHIP, L.P.

By:



\_\_\_\_\_  
J. Timothy Hobbs  
Christopher Kelly  
WILEY, REIN & FIELDING  
1776 K Street, N.W.  
Washington, D.C. 20006  
(202) 719-7000

Attorneys for Petitioner

Dated: August 18, 2005

WRFMAIN 12365987.1

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 652,137

United States Patent and Trademark Office

Registered Sep. 24, 1957

10 Year Renewal

Renewal Term Begins Sep. 24, 1997

TRADEMARK  
PRINCIPAL REGISTER

WHATABURGER

WHATABURGER, INC. (TEXAS CORPORATION)

4600 PARKDALE DRIVE

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

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

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

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

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

Int. Cl.: 42

Prior U.S. Cl.: 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 891,082

Registered May 12, 1970

Renewal Approved Feb. 15, 1990

SERVICE MARK  
PRINCIPAL REGISTER

# WHATABURGER

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

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 WHATABURGER, INC. (TEXAS CORPORATION) CORPUS CHRISTI, TX

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

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

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

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

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

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

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

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

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

COMMISSIONER OF PATENTS AND TRADEMARKS

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

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

United States Patent and Trademark Office  
10 Year Renewal

Reg. No. 1,011,928

Registered May 27, 1975

Renewal Term Begins May 27, 1995

TRADEMARK  
SERVICE MARK  
PRINCIPAL REGISTER



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

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

COLOR IS NOT CLAIMED AS A FEATURE OF THE MARK.

FOR: SOFT DRINKS, IN CLASS 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

Reg. No. 1,014,196

United States Patent and Trademark Office

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**

WHATABÜRGER, INC. (TEXAS CORPO-  
RATION)  
4600 PARKDALE DRIVE  
CORPUS CHRISTI, TX 784112981, BY  
MERGER WITH WHATABURGER  
SYSTEMS, INC. (TEXAS CORPORA-  
TION) CORPUS CHRISTI, TX

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

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

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

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 1,206,344

Registered Aug. 24, 1982

**TRADEMARK**  
Principal Register

**WHATACATCH**

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

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

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

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

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

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

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

JERRY L. PRICE, Primary Examiner

ROBERT C. CLARK JR., Examiner

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,150,703

United States Patent and Trademark Office

Registered Apr. 14, 1998

**SERVICE MARK  
PRINCIPAL REGISTER**

**WHATASIZE IT!**

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

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

**United States Patent and Trademark Office**

**Reg. No. 2,335,590**

**Registered Mar. 28, 2000**

**SERVICE MARK  
PRINCIPAL REGISTER**

**WHATABURGER**

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

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

Reg. No. 2,372,372

United States Patent and Trademark Office

Registered Aug. 1, 2000

**TRADEMARK  
PRINCIPAL REGISTER**

**WHATAKIDS**

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

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

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

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

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

EDWARD TIMBERLAKE, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,534,527

United States Patent and Trademark Office

Registered Jan. 29, 2002

**SERVICE MARK  
PRINCIPAL REGISTER**

**WHATAPLACE! WHATATASTE!**

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

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

United States Patent and Trademark Office

Reg. No. 2,846,139

Registered May 25, 2004

TRADEMARK  
PRINCIPAL REGISTER

WHATABLENDERS

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

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