

ESTTA Tracking number: **ESTTA569587**

Filing date: **11/07/2013**

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

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Little Fish/Big Pond, L.L.C.		
Entity	Limited liability company	Citizenship	Louisiana
Address	1805 State Street New Orleans, LA 70118 UNITED STATES		

Attorney information	R. Andrew Patty II McGlinchey Stafford 301 Main Street, 14th Floor Baton Rouge, LA 70801 UNITED STATES dpatty@mcglinchey.com, docket-ip@mcglinchey.com Phone:225-383-9000		
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Registration Subject to Cancellation

Registration No	3887197	Registration date	12/07/2010
Registrant	Enderle, Kevin 4022 Macintosh Rd. Dover, FL 33527 USX		

Goods/Services Subject to Cancellation

Class 043. First Use: 2009/02/24 First Use In Commerce: 2009/02/24 All goods and services in the class are cancelled, namely: Restaurant and bar services
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Grounds for Cancellation


Priority and likelihood of confusion	Trademark Act section 2(d)
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Related Proceedings	92058115
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Marks Cited by Petitioner as Basis for Cancellation

U.S. Application No.	85814946	Application Date	01/03/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	GW FINS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 043. First use: First Use: 2001/03/09 First Use In Commerce: 2001/03/09 Fine dining restaurant services featuring seafood

U.S. Application No.	85814951	Application Date	01/03/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	GW FINS		
Design Mark			
Description of Mark	The mark consists of the letters "GW" in small uppercase font, under the image of a fish hook, followed by the letters "FINS" in uppercase font, with the image of the fish hook extending from the left side of the letter "F" so as to hook around the letters "GW".		
Goods/Services	Class 043. First use: First Use: 2001/03/09 First Use In Commerce: 2001/03/09 Fine dining restaurant services featuring seafood		

Attachments	85814946#TMSN.jpeg(bytes) 85814951#TMSN.jpeg(bytes) T-1323-Petition-to-Cancel-JJ-FINS-DESIGN.pdf(1700194 bytes)
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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	/R. Andrew Patty II/
Name	R. Andrew Patty II
Date	11/07/2013

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

IN THE MATTER OF REGISTRATION NO. 3,887,197

FOR THE MARK: JJ FIN'S (design)

DATE OF REGISTRATION: December 7, 2010

LITTLE FISH/BIG POND, L.L.C.

1805 State Street

New Orleans, Louisiana 70118

Petitioner,

v.

Cancellation No.:_____

KEVIN ENDERLE

4022 Macintosh Road

Dover, Florida 33527

Registrant.

Trademark Trial and Appeal Board

Commissioner for Trademarks

P.O. Box 1451

Alexandria, VA 22313-1451

PETITION TO CANCEL

1. This is a petition to cancel the above registration under Section 2(d) of the Trademark Act.
2. Petitioner information: LITTLE FISH/BIG POND, L.L.C., is a Louisiana Limited Liability Company, having a business address of 1805 State Street, New Orleans, Louisiana 70118, United States (“Petitioner”).
3. Registrant information: The name of the current owner of Registration No. 3,887,197 as indicated by the U.S. Patent and Trademark Office’s Trademark Status and Document Retrieval (TSDR) system is KEVIN ENDERLE, an individual, with an address of 4022 Macintosh Road, Dover, Florida 33527, United States (“Registrant”).

4. Petitioner is the owner and operator of GW FINS, a fine dining seafood restaurant in New Orleans, Louisiana.
5. Petitioner believes that it is being damaged by Registration No. 3,887,197 for the mark JJ FIN'S (design), and hereby petitions to cancel the registration of said mark.
6. Petitioner filed a use-based application under 15 USC Section 1051(a) for registration of the mark GW FINS on January 1, 2013, for "fine dining restaurant services featuring seafood" in International Class 043, which has been assigned U.S. Application Serial Number 85/814,946. The application alleges a date of first use and first use in interstate commerce of at least as early as March 9, 2001. A true copy of this Application is included as *Exhibit "A"*.
7. Petitioner also filed a use-based application under 15 USC Section 1051(a) for registration of GW FINS and design, on January 1, 2013, for "fine dining restaurant services featuring seafood" in International Class 043, which has been assigned U.S. Application Serial Number 85/814,951. The application alleges a date of first use and first use in interstate commerce of at least as early as March 9, 2001. A true copy of this Application is included as *Exhibit "B"*.
8. On April 24, 2013, the United States Patent and Trademark Office issued an Office Action in connection with Petitioner's Application Serial No. 85/814,946, stating, *inter alia*,

Registration of the applied-for mark is refused because of a likelihood of confusion with the marks in U.S. Registration Nos. 3783852, 3871104, 3887197 and 4056527. Trademark Act Section 2(d), 15 U.S.C. §1052(d); see TMEP §§1207.01 *et seq.*

A true copy of this Office Action is included as *Exhibit "C"*.

9. On April 24, 2013, the United States Patent and Trademark Office issued an Office Action in connection with Petitioner's Application Serial No. 85/814,951, stating, *inter alia*,

Registration of the applied-for mark is refused because of a likelihood of

confusion with the marks in U.S. Registration Nos. 3783852, 3871104, 3887197 and 4056527. Trademark Act Section 2(d), 15 U.S.C. §1052(d); see TMEP §§1207.01 *et seq.*

A true copy of this Office Action is included as **Exhibit “D”**.

10. Registration of Petitioner's applied-for marks GW FINS and GW FINS and design has been refused because of an alleged likelihood of confusion with the mark JJ FIN'S (design) in U.S. Registration No. 3,887,197, for “restaurant and bar services” in International Class 43.
11. U.S. Registration No. 3,887,197 alleges a first date of use for the mark JJ FIN'S (design) of February 24, 2009.
12. Petitioner commenced use of both of its GW FINS and GW FINS and design marks in interstate commerce at least as early as March 9, 2001.
13. Petitioner's marks GW FINS and GW FINS and design have been in use in the United States and in interstate commerce for the services described in its pending applications 85/814,946 and 85/814,951, from a time *prior to* Registrant's earliest date of use of the registered mark, JJ FIN'S (design).
14. If Registrant is permitted to retain the registration sought to be cancelled notwithstanding Petitioner's prior use of its GW FINS and GW FINS and design service marks, in view of the apparent likelihood of confusion between Registrant and Petitioner's respective marks as asserted by the examiner in the Petitioner's pending applications, a cloud will be placed on Petitioner's title in and to its marks, GW FINS and GW FINS and design, and on its right to enjoy the free and exclusive use thereof in connection with the sale of its services, all to the great injury of Petitioner.

WHEREFORE, Petitioner prays that Registration No. 3,887,197 be cancelled in its entirety. The filing fee of \$300 for this Petition to Cancel is being submitted electronically with this Petition.

Respectfully submitted,

/R. Andrew Patty II/

R. Andrew Patty II
Louisiana Bar No. 23892
Counsel for Petitioner
McGlinchey Stafford PLLC
301 Main Street, 14th Floor
Baton Rouge, LA 70801
Telephone: 225-383-9000
Facsimile: 225-343-3076
Email: dpatty@mcglinchey.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing PETITION TO CANCEL, and copies of any exhibits filed therewith, are being deposited with the U.S. Postal Service with sufficient postage as first-class mail this 7th day of November, 2013, in an envelope addressed to Registrant, Kevin Enderle, 4022 Macintosh Road, Dover, Florida 33527.

/R. Andrew Patty II/

R. Andrew Patty II
Louisiana Bar No. 23892
Counsel for Petitioner
McGlinchey Stafford PLLC
301 Main Street, 14th Floor
Baton Rouge, LA 70801
Telephone: 225-383-9000
Facsimile: 225-343-3076
Email: dpatty@mcglinchey.com

Trademark/Service Mark Application, Principal Register

Serial Number: 85814946

Filing Date: 01/03/2013

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85814946
MARK INFORMATION	
*MARK	GW FINS
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	GW FINS
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Little Fish/Big Pond, L.L.C.
*STREET	808 Bienville Street
*CITY	New Orleans
*STATE (Required for U.S. applicants)	Louisiana
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	70112
LEGAL ENTITY INFORMATION	
TYPE	limited liability company
STATE/COUNTRY WHERE LEGALLY ORGANIZED	Louisiana
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	043

EXHIBIT "A"

*IDENTIFICATION	Fine dining restaurant services featuring seafood
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/09/2001
FIRST USE IN COMMERCE DATE	At least as early as 03/09/2001
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT16\858\149\85814946\xml1\ APP0003.JPG
SPECIMEN DESCRIPTION	live screen shot of company website displaying the services in association with the mark
ADDITIONAL STATEMENTS SECTION	
PRIOR REGISTRATION(S)	The applicant claims ownership of U.S. Registration Number(s) 2589595 and 2888616.
ATTORNEY INFORMATION	
NAME	R. Andrew Patty II
ATTORNEY DOCKET NUMBER	T-1296
FIRM NAME	McGlinchey Stafford PLLC
STREET	301 Main Street, 14th Floor
CITY	Baton Rouge
STATE	Louisiana
COUNTRY	United States
ZIP/POSTAL CODE	70802
PHONE	225-383-9000
FAX	225-343-3076
EMAIL ADDRESS	docket-ip@mcglinchey.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	Mary H. Drabnis
CORRESPONDENCE INFORMATION	
NAME	R. Andrew Patty II
FIRM NAME	McGlinchey Stafford PLLC
STREET	301 Main Street, 14th Floor
CITY	Baton Rouge

EXHIBIT "A"

STATE	Louisiana
COUNTRY	United States
ZIP/POSTAL CODE	70802
PHONE	225-383-9000
FAX	225-343-3076
EMAIL ADDRESS	docket-ip@mcglinchey.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	325
*TOTAL FEE DUE	325
*TOTAL FEE PAID	325
SIGNATURE INFORMATION	
SIGNATURE	/Gary Wollerman/
SIGNATORY'S NAME	Gary Wollerman
SIGNATORY'S POSITION	Member
DATE SIGNED	01/03/2013

Trademark/Service Mark Application, Principal Register

Serial Number: 85814946

Filing Date: 01/03/2013

To the Commissioner for Trademarks:

MARK: GW FINS (Standard Characters, see [mark](#))

The literal element of the mark consists of GW FINS.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Little Fish/Big Pond, L.L.C., a limited liability company legally organized under the laws of Louisiana, having an address of

808 Bienville Street

New Orleans, Louisiana 70112

United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 043: Fine dining restaurant services featuring seafood

In International Class 043, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 03/09/2001, and first used in commerce at least as early as 03/09/2001, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) live screen shot of company website displaying the services in association with the mark.

[Specimen File 1](#)

The applicant claims ownership of U.S. Registration Number(s) 2589595 and 2888616.

The applicant's current Attorney Information:

R. Andrew Patty II and Mary H. Drabnis of McGlinchey Stafford PLLC

301 Main Street, 14th Floor

Baton Rouge, Louisiana 70802

United States

The attorney docket/reference number is T-1296.

The applicant's current Correspondence Information:

R. Andrew Patty II

McGlinchey Stafford PLLC

301 Main Street, 14th Floor
Baton Rouge, Louisiana 70802
225-383-9000(phone)
225-343-3076(fax)
docket-ip@mcglinchey.com (authorized)

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Gary Wollerman/ Date: 01/03/2013
Signatory's Name: Gary Wollerman
Signatory's Position: Member
RAM Sale Number: 6825
RAM Accounting Date: 01/04/2013

Serial Number: 85814946
Internet Transmission Date: Thu Jan 03 16:27:45 EST 2013
TEAS Stamp: USPTO/BAS-209.163.132.98-201301031627453
11929-85814946-490edddb48ca84f647ada8
85c2586c11-DA-6825-20130103133219118326

GW FINS

EXHIBIT "A"

About GW Fins | GW Fins - McGlinchey Stafford, PLLC

http://gwfins.com/about-gw-fins-3/

File Edit View Favorites Tools Help

Favorites Suggested Sites E-Bus - File U.S. Patents &... Espacenet - Advanced sea... IP Links Patent Electronic Business... Web Slice Gallery

About GW Fins | GW Fins

GW FINS
Seafood at its Seasonal Peak™

For reservations call
(504) 581-3467

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About GW Fins



Dining at GW Fins is like taking a culinary expedition around the globe, dining on the finest quality seafood at every port. Diners might begin their journey with fresh King Crab from Alaska, head south to sample a whole roasted Red Snapper and fly halfway around the world to enjoy Blue Nose Bass from New Zealand. Best of all, diners can enjoy this fabulous seafood all in one meal from their comfortable seats at GW Fins, a restaurant located in the heart of New Orleans' French Quarter. This unique concept and its execution has worked well for GW Fins, earning it *Esquire* magazine's designation as "One of America's Top 20 Best New Restaurants Award," just months after opening.

Locally owned by Gary Wollerman and Tenney Flynn, GW Fins' menu philosophy is simple. Chef Flynn locates the finest quality seafood from around the world, and develops cooking techniques that simply enhance the already wonderful flavors. This philosophy is not new for Chef Flynn, who in his former culinary life, worked with the finest quality prime beef as Executive Chef of Chops in Atlanta and as the Director of Culinary Operations for Ruth's Chris Steak House.

"We look at GW Fins as a Prime Seafood House," says Chef Flynn. "We offer our guests the opportunity to sample some of the best seafood in the world. Our preparation methods bring out the true flavors of that seafood, rather than masking them with heavy sauces and overwhelming spices."

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Trademark/Service Mark Application, Principal Register

Serial Number: 85814951

Filing Date: 01/03/2013

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85814951
MARK INFORMATION	
*MARK	\\TICRS\EXPORT16\IMAGEOUT\16\858\149\85814951\xml1\ APP0002.JPG
SPECIAL FORM	YES
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	GW FINS
COLOR MARK	NO
*DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of the letters GW in small uppercase font, under the image of a fish hook, followed by the letters FINS in uppercase font, with the image of the fish hook extending from the left side of the letter F so as to hook around the letters GW.
PIXEL COUNT ACCEPTABLE	YES
PIXEL COUNT	870 x 256
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Little Fish/Big Pond, L.L.C.
*STREET	808 Bienville Street
*CITY	New Orleans
*STATE (Required for U.S. applicants)	Louisiana
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	70112

EXHIBIT "B"

LEGAL ENTITY INFORMATION	
TYPE	limited liability company
STATE/COUNTRY WHERE LEGALLY ORGANIZED	Louisiana
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	042
*IDENTIFICATION	Fine dining restaurant services featuring seafood
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/09/2001
FIRST USE IN COMMERCE DATE	At least as early as 03/09/2001
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT 16\858\149\85814951\xml1\ APP0003.JPG
SPECIMEN DESCRIPTION	Live screen shot of company website displaying the mark in association with the services
ADDITIONAL STATEMENTS SECTION	
PRIOR REGISTRATION(S)	The applicant claims ownership of U.S. Registration Number(s) 2589595 and 2888616.
ATTORNEY INFORMATION	
NAME	R. Andrew Patty II
ATTORNEY DOCKET NUMBER	T-1297
FIRM NAME	McGlinchey Stafford PLLC
STREET	301 Main Street, 14th Floor
CITY	Baton Rouge
STATE	Louisiana
COUNTRY	United States
ZIP/POSTAL CODE	70802
PHONE	225-383-9000
FAX	225-343-3076
EMAIL ADDRESS	docket-ip@mcglinchey.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes

EXHIBIT "B"

OTHER APPOINTED ATTORNEY	Mary H. Drabnis
CORRESPONDENCE INFORMATION	
NAME	R. Andrew Patty II
FIRM NAME	McGlinchey Stafford PLLC
STREET	301 Main Street, 14th Floor
CITY	Baton Rouge
STATE	Louisiana
COUNTRY	United States
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PHONE	225-383-9000
FAX	225-343-3076
EMAIL ADDRESS	docket-ip@mcglinchey.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	325
*TOTAL FEE DUE	325
*TOTAL FEE PAID	325
SIGNATURE INFORMATION	
SIGNATURE	/Gary Wollerman/
SIGNATORY'S NAME	Gary Wollerman
SIGNATORY'S POSITION	Member
DATE SIGNED	01/03/2013

Trademark/Service Mark Application, Principal Register

Serial Number: 85814951

Filing Date: 01/03/2013

To the Commissioner for Trademarks:

MARK: GW FINS (stylized and/or with design, see [mark](#))

The literal element of the mark consists of GW FINS.

The applicant is not claiming color as a feature of the mark. The mark consists of the letters GW in small uppercase font, under the image of a fish hook, followed by the letters FINS in uppercase font, with the image of the fish hook extending from the left side of the letter F so as to hook around the letters GW.

The applicant, Little Fish/Big Pond, L.L.C., a limited liability company legally organized under the laws of Louisiana, having an address of

808 Bienville Street
New Orleans, Louisiana 70112
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 042: Fine dining restaurant services featuring seafood

In International Class 042, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 03/09/2001, and first used in commerce at least as early as 03/09/2001, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) Live screen shot of company website displaying the mark in association with the services.

[Specimen File 1](#)

The applicant claims ownership of U.S. Registration Number(s) 2589595 and 2888616.

The applicant's current Attorney Information:

R. Andrew Patty II and Mary H. Drabnis of McGlinchey Stafford PLLC
301 Main Street, 14th Floor
Baton Rouge, Louisiana 70802
United States

The attorney docket/reference number is T-1297.

The applicant's current Correspondence Information:

R. Andrew Patty II
McGlinchey Stafford PLLC
301 Main Street, 14th Floor
Baton Rouge, Louisiana 70802
225-383-9000(phone)
225-343-3076(fax)
docket-ip@mcglinchey.com (authorized)

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Gary Wollerman/ Date: 01/03/2013
Signatory's Name: Gary Wollerman
Signatory's Position: Member
RAM Sale Number: 6874
RAM Accounting Date: 01/04/2013

Serial Number: 85814951
Internet Transmission Date: Thu Jan 03 16:30:02 EST 2013
TEAS Stamp: USPTO/BAS-209.163.132.98-201301031630026
92012-85814951-490a4b2722b4e7b223a3a83e0
56fd37c8de-DA-6874-20130103134340327290

EXHIBIT "B"

About GW Fins | GW Fins - McGlinchey Stafford, PLLC

http://gwfins.com/about-gw-fins-3/

File Edit View Favorites Tools Help

Favorites Suggested Sites E-Bus - File U.S. Patents &... Espacenet - Advanced sea... IP Links Patent Electronic Business... Web Slice Gallery

About GW Fins | GW Fins

GW FINS
Seafood at its Seasonal Peak™

For reservations call
(504) 581-3467

About Menus Private Parties Gift Certificates Community Fins Hours + Directions Blog

About GW Fins



Dining at GW Fins is like taking a culinary expedition around the globe, dining on the finest quality seafood at every port. Diners might begin their journey with fresh King Crab from Alaska, head south to sample a whole roasted Red Snapper and fly halfway around the world to enjoy Blue Nose Bass from New Zealand. Best of all, diners can enjoy this fabulous seafood all in one meal from their comfortable seats at GW Fins, a restaurant located in the heart of New Orleans' French Quarter. This unique concept and its execution has worked well for GW Fins, earning it *Esquire* magazine's designation as "One of America's Top 20 Best New Restaurants Award," just months after opening.

Locally owned by Gary Wollerman and Tenney Flynn, GW Fins' menu philosophy is simple. Chef Flynn locates the finest quality seafood from around the world, and develops cooking techniques that simply enhance the already wonderful flavors. This philosophy is not new for Chef Flynn, who in his former culinary life, worked with the finest quality prime beef as Executive Chef of Chops in Atlanta and as the Director of Culinary Operations for Ruth's Chris Steak House.

"We look at GW Fins as a Prime Seafood House," says Chef Flynn. "We offer our guests the opportunity to sample some of the best seafood in the world. Our preparation methods bring out the true flavors of that seafood, rather than masking them with heavy sauces and overwhelming spices."

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FINIS

GW

EXHIBIT "B"

To: Little Fish/Big Pond, L.L.C. (docket-ip@mcglinchey.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85814946 - GW FINS - T-1296
Sent: 4/24/2013 6:29:49 PM
Sent As: ECOM104@USPTO.GOV
Attachments: [Attachment - 1](#)
[Attachment - 2](#)
[Attachment - 3](#)
[Attachment - 4](#)
[Attachment - 5](#)
[Attachment - 6](#)
[Attachment - 7](#)
[Attachment - 8](#)
[Attachment - 9](#)
[Attachment - 10](#)
[Attachment - 11](#)
[Attachment - 12](#)
[Attachment - 13](#)
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[Attachment - 18](#)
[Attachment - 19](#)
[Attachment - 20](#)
[Attachment - 21](#)
[Attachment - 22](#)

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

U.S. APPLICATION SERIAL NO. 85814946

MARK: GW FINS

85814946

CORRESPONDENT ADDRESS:

R. ANDREW PATTY II
MCGLINCHEY STAFFORD PLLC
301 MAIN ST FL 14
BATON ROUGE, LA 70801-1916

CLICK HERE TO RESPOND TO THIS LETTER
http://www.uspto.gov/trademarks/teas/response_forms.jsp

APPLICANT: Little Fish/Big Pond, L.L.C.

CORRESPONDENT'S REFERENCE/DOCKET NO :

T-1296

CORRESPONDENT E-MAIL ADDRESS:

docket-ip@mcglinchey.com

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE: 4/24/2013

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION

Registration of the applied-for mark is refused because of a likelihood of confusion with the marks in U.S. Registration Nos. 3783852, 3871104, 3887197 and 4056527. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registrations.

In any likelihood of confusion determination, two key considerations are similarity of the marks and similarity or relatedness of the goods and/or services. *See Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103, 192 USPQ 24, 29 (C.C.P.A. 1976); *In re Iolo Techs., LLC*, 95 USPQ2d 1498, 1499 (TTAB 2010); TMEP §1207.01; *see also In re Dixie Rests. Inc.*, 105 F.3d 1405, 1406-07, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997). That is, the marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973)); TMEP §1207.01(b)-(b)(v). Additionally, the goods and/or services are compared to determine whether they are similar or commercially related or travel in the same trade channels. *See Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369-71, 101 USPQ2d 1713, 1722-23 (Fed. Cir. 2012); *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1165, 64 USPQ2d 1375, 1381 (Fed. Cir. 2002); TMEP §1207.01, (a)(vi).

COMPARISON OF MARKS

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973)); TMEP §1207.01(b)-(b)(v). Similarity in any one of these elements may be sufficient to find the marks confusingly similar. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *see In re 1st USA Realty Prof'ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007); TMEP §1207.01(b).

EXHIBIT "C"

Although marks are compared in their entireties, one feature of a mark may be more significant or dominant in creating a commercial impression. *See In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Nat'l Data Corp.*, 753 F.2d 1056, 1058, 224 USPQ 749, 751 (Fed. Cir. 1985); TMEP §1207.01(b)(viii), (c)(ii). Greater weight is often given to this dominant feature when determining whether marks are confusingly similar. *See In re Nat'l Data Corp.*, 753 F.2d at 1058, 224 USPQ at 751. In the present case, the lettering GW is the first and hence dominant feature of applicant's mark, which otherwise consists of the word FINS. This dominant feature is identical to the dominant feature of the mark in U.S. Registration No. 3783852, which otherwise consists of the disclaimed word CHEESESTEAKS; and is virtually identical to the mark in U.S. Registration No. 4056527, GW, stylized.

In addition, marks may be confusingly similar where there are similar terms or phrases or similar parts of terms or phrases appearing in both applicant's and registrant's mark. *See Crocker Nat'l Bank v. Canadian Imperial Bank of Commerce*, 228 USPQ 689 (TTAB 1986), *aff'd sub nom. Canadian Imperial Bank of Commerce v. Wells Fargo Bank, Nat'l Ass'n*, 811 F.2d 1490, 1 USPQ2d 1813 (Fed. Cir. 1987) (COMMCASH and COMMUNICASH); *In re Phillips-Van Heusen Corp.*, 228 USPQ 949 (TTAB 1986) (21 CLUB and "21" CLUB (stylized)); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) (CONFIRM and CONFIRMCELLS); *In re Collegian Sportswear Inc.*, 224 USPQ 174 (TTAB 1984) (COLLEGIAN OF CALIFORNIA and COLLEGIENNE); *In re Pellerin Milnor Corp.*, 221 USPQ 558 (TTAB 1983) (MILTRON and MILLTRONICS); *In re BASF A.G.*, 189 USPQ 424 (TTAB 1975) (LUTEXAL and LUTEX); TMEP §1207.01(b)(ii)-(iii). In the present case, applicant's mark GW FINS and the marks in U.S. Registration Nos. 3871104 and 3887197, JJ FIN'S DOCKSIDE and JJ FIN'S, stylized, and design, are confusingly similar in that they consist of two letters followed by, respectively, the word FINS or the word FIN'S.

For a composite mark containing both words and a design, the word portion may be more likely to be impressed upon a purchaser's memory and to be used when requesting the goods and/or services. *In re Dakin's Miniatures, Inc.*, 59 USPQ2d 1593, 1596 (TTAB 1999); TMEP §1207.01(c)(ii); *see In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908, 1911 (Fed. Cir. 2012) (citing *CBS Inc. v. Morrow*, 708 F.2d 1579, 1581-82, 218 USPQ 198, 200 (Fed. Cir. 1983)). Thus, although such marks must be compared in their entireties, the word portion is often considered the dominant feature and is accorded greater weight in determining whether marks are confusingly similar, even where the word portion has been disclaimed. *In re Viterra Inc.*, 671 F.3d at 1366, 101 USPQ2d at 1911 (Fed. Cir. 2012) (citing *Giant Food, Inc. v. Nation's Foodservice, Inc.*, 710 F.2d 1565, 1570-71, 218 USPQ2d 390, 395 (Fed. Cir. 1983)). Accordingly, the addition of a design element to the marks in U.S. Registration Nos. 3887197 and 4056527 is insufficient to negate the confusing similarity between applicant's mark and the marks in these registrations.

COMPARISON OF SERVICES

The goods and/or services of the parties need not be identical or even competitive to find a likelihood of confusion. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000) (“[E]ven if the goods in question are different from, and thus not related to, one another in kind, the same goods can be related in the mind of the consuming public as to the origin of the goods.”); TMEP §1207.01(a)(i).

The respective goods and/or services need only be related in some manner or the conditions surrounding their marketing be such that they will be encountered by the same consumers under circumstances that

EXHIBIT "C"

would lead to the mistaken belief that the goods and/or services originate from the same source. *Gen. Mills Inc. v. Fage Dairy Processing Indus.*, 100 USPQ2d 1584, 1597 (TTAB 2012); TMEP §1207.01(a)(i); *see On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d at 1086, 56 USPQ2d at 1475; *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 1566-68, 223 USPQ 1289, 1290 (Fed. Cir. 1984).

In the present case, applicant's and registrants' services are related in that they include restaurant services and because the subject matter of the restaurant services in U.S. Registration Nos. 3783852, 3871104 and 3887197 is defined broadly enough to encompass the more narrowly defined subject matter of applicant's restaurant services. In addition, the subject matter of applicant's restaurant services and the subject matter of the restaurant services in U.S. Registration No. 4056527 are related in that these services are of a type which frequently emanate from a common source. In this regard, see the enclosed representative sample of third-party registrations whose identifications include both the subject matter of applicant's and registrant's services.

Based on the similarity between applicant's and registrants' marks and the relatedness of their services, as described above, a likelihood of confusion as to the source of these services must be deemed to exist.

Applicant must respond to the requirement set forth below.

CONSENT

The applied-for mark contains the name "GW FINS" and appears to identify a particular living individual; however, the application does not include this named party's written consent to registration of the name as a trademark/service mark. Written consent is required for registration of a mark containing a name, including a pseudonym, stage name or nickname, or signature, if the name or signature identifies a particular living individual. Trademark Act Section 2(c), 15 U.S.C. §1052(c); TMEP §§813, 1206.04(a). Therefore, applicant must clarify whether this name/signature identifies a particular living individual and, if so, provide a written consent from this individual, as explained further below. 37 C.F.R. §2.61(b); TMEP §§813, 1206.04(a).

If the name or signature in the mark does not identify a particular living individual, then applicant must submit a statement that the name "GW FINS" does not identify a living individual. TMEP §§813.01(b), 1206.05; *see* 37 C.F.R. §2.61(b).

If the name or signature in the mark does identify a particular living individual, then applicant must submit the following:

- (1) A statement that the name "GW FINS" identifies a living individual whose consent is of record. If the name represents that of a pseudonym, stage name, or nickname, applicant must include a statement that GW FINS identifies the {pseudonym/stage name/nickname} of {specify actual name}, a living individual whose consent is of record; and
- (2) A written consent, personally signed by the individual whose name or signature appears in the mark, authorizing applicant to register the name, pseudonym, stage name, nickname, or signature as a trademark and/or service mark with the USPTO (e.g., "I consent to the use and registration by Little Fish/Big Pond, L.L.C., of my name GW FINS as a trademark and/or service mark with the USPTO").

TMEP §§813, 813.01(a), 1206.04(a); *see* 37 C.F.R. §2.61(b).

EXHIBIT "C"

Failure to respond to this inquiry is a sufficient basis for refusing registration. *See In re Cheezwhse.com, Inc.*, 85 USPQ2d 1917, 1919 (TTAB 2008); *In re DTI P'ship LLP*, 67 USPQ2d 1699, 1701 (TTAB 2003); TMEP §814.

ADVISORY

Applicant's claim of ownership of U.S. Registration Nos. 2589595 and 2888616 will not be printed on any registration which may issue from this application because Office records show that the claimed registrations are cancelled. Only claims of ownership of active registrations are printed. *See* 37 C.F.R. §2.36; TMEP §812.

RESPONSE TO OFFICE ACTION

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. *See* 37 C.F.R. §2.191; TMEP §§304.01-.02, 709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal(s) and/or requirement(s) in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant's rights. *See* TMEP §§705.02, 709.06.

/Barney L. Charlon/
Trademark Examining Attorney
Law Office 104
(571) 272-9141
(571) 273-9104 (fax)
barney.charlon@uspto.gov

TO RESPOND TO THIS LETTER: Go to http://www.uspto.gov/trademarks/teas/response_forms.jsp. Please wait 48-72 hours from the issue/ mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

All informal e-mail communications relevant to this application will be placed in the official application record.

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep

EXHIBIT "C"

a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

Print: Apr 24, 2013

76702264

DESIGN MARK

Serial Number

76702264

Status

REGISTERED

Word Mark

GW

Standard Character Mark

No

Registration Number

4056527

Date Registered

2011/11/15

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

PRIMARY HOSPITALITY GROUP LLC LIMITED LIABILITY COMPANY ILLINOIS 125 S
WACKER DR STE 3010 CHICAGO ILLINOIS 60606

Goods/Services

Class Status -- ACTIVE. IC 043. US 100 101. G & S: Restaurant
services featuring sandwiches. First Use: 2010/10/01. First Use In
Commerce: 2010/10/01.

Description of Mark

The color yellow appears in the stylized letters "GW". The color gray
is for background purposes only and is not part of the mark.

Colors Claimed

The color(s) yellow is/are claimed as a feature of the mark.

Filing Date

2010/03/29

Examining Attorney

BRADLEY, EVELYN

Print: Apr 24, 2013

76702264

Attorney of Record
Harlan D. Kahn



Print: Apr 24, 2013

77677244

DESIGN MARK

Serial Number

77677244

Status

REGISTERED

Word Mark

JJ FIN'S DOCKSIDE

Standard Character Mark

Yes

Registration Number

3871104

Date Registered

2010/11/02

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

Enderle, Kevin INDIVIDUAL UNITED STATES 4022 Macintosh Rd. Dover
FLORIDA 33527

Goods/Services

Class Status -- ACTIVE. IC 043. US 100 101. G & S: Restaurant and
bar services. First Use: 2009/02/24. First Use In Commerce:
2009/02/24.

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "DOCKSIDE" APART FROM
THE MARK AS SHOWN.

Colors Claimed

Color is not claimed as a feature of the mark.

Filing Date

2009/02/24

Examining Attorney

HINES, REGINA

JJ FIN'S DOCKSIDE

Print: Apr 24, 2013

77721451

DESIGN MARK

Serial Number

77721451

Status

REGISTERED

Word Mark

JJ FIN'S

Standard Character Mark

No

Registration Number

3887197

Date Registered

2010/12/07

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

Enderle, Kevin INDIVIDUAL UNITED STATES 4022 Macintosh Rd. Dover
FLORIDA 33527

Goods/Services

Class Status -- ACTIVE. IC 043. US 100 101. G & S: Restaurant and
bar services. First Use: 2009/02/24. First Use In Commerce:
2009/02/24.

Name/Portrait Statement

The name(s), portrait(s), and/or signature(s) shown in the mark does
not identify a particular living individual.

Description of Mark

The mark consists of the letters "JJ" (stylized - smaller fonts) in a
shape of fishing hooks or "J" hooks that hang on the left side of the
design; the word "FIN'S" (Stylized - bigger fonts) next to the letter
"JJ" with a stylized fin appearing at the top of the letter "F" in
"FIN'S"; shaded oval shape as the background and border of the
lettering "JJ FIN'S".

Colors Claimed

Print: Apr 24, 2013

77721451

Color is not claimed as a feature of the mark.

Filing Date

2009/04/24

Examining Attorney

LOVELACE, JAMES



Print: Apr 24, 2013

77814333

DESIGN MARK

Serial Number

77814333

Status

REGISTERED

Word Mark

GW CHEESESTEAKS

Standard Character Mark

Yes

Registration Number

3783852

Date Registered

2010/05/04

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

Great Wraps, Inc. CORPORATION GEORGIA Suite 315 4 Executive Park East
Atlanta GEORGIA 30329

Goods/Services

Class Status -- ACTIVE. IC 029. US 046. G & S: Sandwiches. First
Use: 2009/07/10. First Use In Commerce: 2009/07/10.

Goods/Services

Class Status -- ACTIVE. IC 043. US 100 101. G & S: Restaurant and
fast food services. First Use: 2009/07/10. First Use In Commerce:
2009/07/10.

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CHEESESTEAKS" APART
FROM THE MARK AS SHOWN.

Filing Date

2009/08/27

Examining Attorney

ABRAMS, JACQUELINE A.

Print: Apr 24, 2013

77814333

Attorney of Record

Stephen M. Dorvee, Esq.

GW CHEESESTEAKS

Print: Apr 24, 2013

72196866

TYPED DRAWING

Serial Number

72196866

Status

REGISTERED AND RENEWED

Word Mark

JACK'S

Standard Character Mark

No

Registration Number

0793082

Date Registered

1965/07/20

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

JACK'S FAMILY RESTAURANTS, INC. CORPORATION ALABAMA 124 WEST OXMOOR ROAD HOMEWOOD ALABAMA 35209

Goods/Services

Class Status -- ACTIVE. IC 042. US 100. G & S; RESTAURANT SERVICES-NAMELY, DRIVE-IN RESTAURANTS SPECIALIZING IN THE SERVING OF SANDWICHES, SEAFOOD, AND NONALCOHOLIC BEVERAGES. First Use: 1961/12/01. First Use In Commerce: 1964/06/04.

Filing Date

1964/07/01

Examining Attorney

UNKNOWN

Print: Apr 24, 2013

85531647

DESIGN MARK

Serial Number

85531647

Status

REGISTERED

Word Mark

SKOGIES

Standard Character Mark

No

Registration Number

4205419

Date Registered

2012/09/11

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

Lakeside Restaurants, Inc. CORPORATION GEORGIA 2260 Mars Hill Road
Watkinsville GEORGIA 30677

Goods/Services

Class Status -- ACTIVE. IC 043. US 100 101. G & S: Restaurant services; Restaurant services featuring fish, chicken, seafood, sandwiches, side dishes, salads; Restaurant services, including sit-down service of food and take-out restaurant services; Restaurant services, namely, providing of food and beverages for consumption on and off the premises. First Use: 2005/07/31. First Use In Commerce: 2005/07/31.

Description of Mark

The mark consists of a stylistic rendering of a fish with the stylistic literal element "Skogies" integrated into the stylistic rendering of the fish with the lower portion of the first "S" and the descending portion of the "g" forming portions of the belly of the stylistic rendering of the fish and the second "S" forming the tail of the stylistic rendering of the fish, the stylistic rendering of the fish including a fin on the top and various sized bubbles over the front of the stylistic rendering of the fish.

Print: Apr 24, 2013

85531847

Colors Claimed

Color is not claimed as a feature of the mark.

Filing Date

2012/02/01

Examining Attorney

CATALDO, CAROLYN

Attorney of Record

Gregory Scott Smith



Print: Apr 24, 2013

85583061

DESIGN MARK

Serial Number

85583061

Status

REGISTERED

Word Mark

SOUVLAKI FAST

Standard Character Mark

Yes

Registration Number

4259489

Date Registered

2012/12/11

Type of Mark

SERVICE MARK

Register

SUPPLEMENTAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

Bichler, Margaret INDIVIDUAL UNITED STATES 9526 Osprey Isles Blvd.
West Palm Beach FLORIDA 33412

Owner

Zambiyadis, Zafeiris INDIVIDUAL UNITED STATES 9526 Osprey Isles Blvd.
West Palm Beach FLORIDA 33412

Goods/Services

Class Status -- ACTIVE. IC 043. US 100 101. G & S: Restaurant services featuring Greek cuisine including marinated and grilled meat, seafood, and vegetables served on a salad, in a pita sandwich, or with rice or french fries; Restaurant services, including sit-down service of food and take-out restaurant services. First Use: 2010/04/01. First Use In Commerce: 2010/05/01.

Filing Date

2012/03/29

Amended Register Date

2012/10/18

Print: Apr 24, 2013

85583061

Examining Attorney
MITTLER, ROBIN

SOUVLAKI fast

Print: Apr 24, 2013

76103983

DESIGN MARK

Serial Number

76103983

Status

CANCELLED - SECTION 8

Word Mark

GW FINS

Standard Character Mark

No

Registration Number

2589595

Date Registered

2002/07/02

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

Little Fish Big Pond, LLC LIMITED LIABILITY CORPORATION LOUISIANA 1805
State Street New Orleans LOUISIANA 70118

Goods/Services

Class Status -- SECTION 8 - CANCELLED. IC 042. US 100 101, G & S;
Fine Dining Seafood Restaurant. First Use: 2000/08/07. First Use In
Commerce: 2001/04/01.

Filing Date

2000/08/07

Examining Attorney

ROBINSON, JOHANNA

GW FINS

Print: Apr 24, 2013

76535619

DESIGN MARK

Serial Number

76535619

Status

CANCELLED - SECTION 8

Word Mark

SEAFOOD AT ITS SEASONAL PEAK

Standard Character Mark

No

Registration Number

2888616

Date Registered

2004/09/28

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

Little Fish Big Pond LIMITED LIABILITY COMPANY LOUISIANA 808 Bienville
St, New Orleans LOUISIANA 70112

Goods/Services

Class Status -- SECTION 8 - CANCELLED. IC 043, US 100 101, G & S:
Restaurant services. First Use: 2001/03/01. First Use In Commerce:
2001/03/01.

Filing Date

2003/07/24

Examining Attorney

EULIN, INGRID

SEAFOOD AT ITS SEASONAL PEAK

To: Little Fish/Big Pond, L.L.C. (docket-ip@mcglinchey.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85814946 - GW FINS - T-1296
Sent: 4/24/2013 6:29:50 PM
Sent As: ECOM104@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

**IMPORTANT NOTICE REGARDING YOUR
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED
ON **4/24/2013** FOR U.S. APPLICATION SERIAL NO. 85814946

Please follow the instructions below:

(1) TO READ THE LETTER: Click on this [link](#) or go to <http://tsdr.uspto.gov>, enter the U.S. application serial number, and click on "Documents."

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) TIMELY RESPONSE IS REQUIRED: Please carefully review the Office action to determine (1) how to respond, and (2) the applicable response time period. Your response deadline will be calculated from **4/24/2013** (or sooner if specified in the Office action). For information regarding response time periods, see <http://www.uspto.gov/trademarks/process/status/responsetime.jsp>.

Do NOT hit "Reply" to this e-mail notification, or otherwise e-mail your response because the USPTO does NOT accept e-mails as responses to Office actions. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System (TEAS) response form located at http://www.uspto.gov/trademarks/teas/response_forms.jsp.

(3) QUESTIONS: For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail TSDR@uspto.gov.

WARNING

Failure to file the required response by the applicable response deadline will result in the ABANDONMENT of your application. For more information regarding abandonment, see

EXHIBIT "C"

<http://www.uspto.gov/trademarks/basics/abandon.jsp>.

PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION: Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see http://www.uspto.gov/trademarks/solicitation_warnings.jsp.

To: Little Fish/Big Pond, L.L.C. (docket-ip@mcglinchey.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85814951 - GW FINS - T-1297
Sent: 4/24/2013 6:45:41 PM
Sent As: ECOM104@USPTO.GOV
Attachments: [Attachment - 1](#)
[Attachment - 2](#)
[Attachment - 3](#)
[Attachment - 4](#)
[Attachment - 5](#)
[Attachment - 6](#)
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[Attachment - 21](#)
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**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

U.S. APPLICATION SERIAL NO. 85814951

MARK: GW FINS

85814951

CORRESPONDENT ADDRESS:

R. ANDREW PATTY II
MCGLINCHEY STAFFORD PLLC
301 MAIN ST FL 14
BATON ROUGE, LA 70801-1916

CLICK HERE TO RESPOND TO THIS LETTER
http://www.uspto.gov/trademarks/teas/response_forms.jsp

APPLICANT: Little Fish/Big Pond, L.L.C.

CORRESPONDENT'S REFERENCE/DOCKET NO :

T-1297

CORRESPONDENT E-MAIL ADDRESS:

docket-ip@mcglinchey.com

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE: 4/24/2013

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION

Registration of the applied-for mark is refused because of a likelihood of confusion with the marks in U.S. Registration Nos. 3783852, 3871104, 3887197 and 4056527. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registrations.

In any likelihood of confusion determination, two key considerations are similarity of the marks and similarity or relatedness of the goods and/or services. *See Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103, 192 USPQ 24, 29 (C.C.P.A. 1976); *In re Iolo Techs., LLC*, 95 USPQ2d 1498, 1499 (TTAB 2010); TMEP §1207.01; *see also In re Dixie Rests. Inc.*, 105 F.3d 1405, 1406-07, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997). That is, the marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973)); TMEP §1207.01(b)-(b)(v). Additionally, the goods and/or services are compared to determine whether they are similar or commercially related or travel in the same trade channels. *See Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369-71, 101 USPQ2d 1713, 1722-23 (Fed. Cir. 2012); *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1165, 64 USPQ2d 1375, 1381 (Fed. Cir. 2002); TMEP §1207.01, (a)(vi).

COMPARISON OF MARKS

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973)); TMEP §1207.01(b)-(b)(v). Similarity in any one of these elements may be sufficient to find the marks confusingly similar. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *see In re 1st USA Realty Prof'ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007); TMEP §1207.01(b).

EXHIBIT "D"

Although marks are compared in their entireties, one feature of a mark may be more significant or dominant in creating a commercial impression. *See In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Nat'l Data Corp.*, 753 F.2d 1056, 1058, 224 USPQ 749, 751 (Fed. Cir. 1985); TMEP §1207.01(b)(viii), (c)(ii). Greater weight is often given to this dominant feature when determining whether marks are confusingly similar. *See In re Nat'l Data Corp.*, 753 F.2d at 1058, 224 USPQ at 751. In the present case, the lettering GW, stylized, is the first and hence dominant feature of applicant's mark, which otherwise consists of the word FINS and a design element. This dominant feature is virtually identical to the dominant feature of the mark in U.S. Registration No. 3783852, GW, which otherwise consists of the disclaimed word CHEESESTEAKS; and is virtually identical to the mark in U.S. Registration No. 4056527, GW, stylized.

In addition, marks may be confusingly similar where there are similar terms or phrases or similar parts of terms or phrases appearing in both applicant's and registrant's mark. *See Crocker Nat'l Bank v. Canadian Imperial Bank of Commerce*, 228 USPQ 689 (TTAB 1986), *aff'd sub nom. Canadian Imperial Bank of Commerce v. Wells Fargo Bank, Nat'l Ass'n*, 811 F.2d 1490, 1 USPQ2d 1813 (Fed. Cir. 1987) (COMMCASH and COMMUNICASH); *In re Phillips-Van Heusen Corp.*, 228 USPQ 949 (TTAB 1986) (21 CLUB and "21" CLUB (stylized)); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) (CONFIRM and CONFIRMCELLS); *In re Collegian Sportswear Inc.*, 224 USPQ 174 (TTAB 1984) (COLLEGIAN OF CALIFORNIA and COLLEGIENNE); *In re Pellerin Milnor Corp.*, 221 USPQ 558 (TTAB 1983) (MILTRON and MILLTRONICS); *In re BASF A.G.*, 189 USPQ 424 (TTAB 1975) (LUTEXAL and LUTEX); TMEP §1207.01(b)(ii)-(iii). In the present case, applicant's mark GW FINS, stylized, and design, and the marks in U.S. Registration Nos. 3871104 and 3887197, JJ FIN'S DOCKSIDE and JJ FIN'S, stylized, and design, are confusingly similar in that they consist of two letters followed by, respectively, the word FINS or the word FIN'S.

For a composite mark containing both words and a design, the word portion may be more likely to be impressed upon a purchaser's memory and to be used when requesting the goods and/or services. *In re Dakin's Miniatures, Inc.*, 59 USPQ2d 1593, 1596 (TTAB 1999); TMEP §1207.01(c)(ii); *see In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908, 1911 (Fed. Cir. 2012) (citing *CBS Inc. v. Morrow*, 708 F.2d 1579, 1581-82, 218 USPQ 198, 200 (Fed. Cir. 1983)). Thus, although such marks must be compared in their entireties, the word portion is often considered the dominant feature and is accorded greater weight in determining whether marks are confusingly similar, even where the word portion has been disclaimed. *In re Viterra Inc.*, 671 F.3d at 1366, 101 USPQ2d at 1911 (Fed. Cir. 2012) (citing *Giant Food, Inc. v. Nation's Foodservice, Inc.*, 710 F.2d 1565, 1570-71, 218 USPQ2d 390, 395 (Fed. Cir. 1983)). Accordingly, the addition of a design element to applicant's mark and the marks in U.S. Registration Nos. 3887197 and 4056527 is insufficient to negate the confusing similarity between applicant's mark and the marks in these registrations.

COMPARISON OF SERVICES

The goods and/or services of the parties need not be identical or even competitive to find a likelihood of confusion. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000) ("[E]ven if the goods in question are different from, and thus not related to, one another in kind, the same goods can be related in the mind of the consuming public as to the origin of the goods."); TMEP §1207.01(a)(i).

The respective goods and/or services need only be related in some manner or the conditions surrounding

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their marketing be such that they will be encountered by the same consumers under circumstances that would lead to the mistaken belief that the goods and/or services originate from the same source. *Gen. Mills Inc. v. Fage Dairy Processing Indus.*, 100 USPQ2d 1584, 1597 (TTAB 2012); TMEP §1207.01(a)(i); *see On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d at 1086, 56 USPQ2d at 1475; *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 1566-68, 223 USPQ 1289, 1290 (Fed. Cir. 1984).

In the present case, applicant's and registrants' services are related in that they include restaurant services and because the subject matter of the restaurant services in U.S. Registration Nos. 3783852, 3871104 and 3887197 is defined broadly enough to encompass the more narrowly defined subject matter of applicant's restaurant services. In addition, the subject matter of applicant's restaurant services and the subject matter of the restaurant services in U.S. Registration No. 4056527 are related in that these services are of a type which frequently emanate from a common source. In this regard, see the enclosed representative sample of third-party registrations whose identifications include both the subject matter of applicant's and registrant's services.

Based on the similarity between applicant's and registrants' marks and the relatedness of their services, as described above, a likelihood of confusion as to the source of these services must be deemed to exist.

Applicant must respond to the requirements set forth below.

CLASSIFICATION OF SERVICES

The services are classified incorrectly. Applicant must amend the application to classify the services in International Class 43. *See* 37 C.F.R. §§2.32(a)(7), 2.85; TMEP §§1401.02(a), 1401.03(b).

CONSENT

The applied-for mark contains the name "GW FINS" and appears to identify a particular living individual; however, the application does not include this named party's written consent to registration of the name as a trademark/service mark. Written consent is required for registration of a mark containing a name, including a pseudonym, stage name or nickname, or signature, if the name or signature identifies a particular living individual. Trademark Act Section 2(c), 15 U.S.C. §1052(c); TMEP §§813, 1206.04(a). Therefore, applicant must clarify whether this name/signature identifies a particular living individual and, if so, provide a written consent from this individual, as explained further below. 37 C.F.R. §2.61(b); TMEP §§813, 1206.04(a).

If the name or signature in the mark does not identify a particular living individual, then applicant must submit a statement that the name "GW FINS" does not identify a living individual. TMEP §§813.01(b), 1206.05; *see* 37 C.F.R. §2.61(b).

If the name or signature in the mark does identify a particular living individual, then applicant must submit the following:

- (1) A statement that the name "GW FINS" identifies a living individual whose consent is of record. If the name represents that of a pseudonym, stage name, or nickname, applicant must include a statement that GW FINS identifies the {pseudonym/stage name/nickname} of {specify actual name}, a living individual whose consent is of record; and
- (2) A written consent, personally signed by the individual whose name or signature appears in the mark, authorizing applicant to register the name, pseudonym, stage name, nickname, or signature

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as a trademark and/or service mark with the USPTO (e.g., “I consent to the use and registration by Little Fish/Big Pond, L.L.C., of my name GW FINS as a trademark and/or service mark with the USPTO”).

TMEP §§813, 813.01(a), 1206.04(a); *see* 37 C.F.R. §2.61(b).

Failure to respond to this inquiry is a sufficient basis for refusing registration. *See In re Cheezwhse.com, Inc.*, 85 USPQ2d 1917, 1919 (TTAB 2008); *In re DTI P’ship LLP*, 67 USPQ2d 1699, 1701 (TTAB 2003); TMEP §814.

ADVISORY

Applicant’s claim of ownership of U.S. Registration Nos. 2589595 and 2888616 will not be printed on any registration which may issue from this application because Office records show that the claimed registrations are cancelled. Only claims of ownership of active registrations are printed. *See* 37 C.F.R. §2.36; TMEP §812.

RESPONSE TO OFFICE ACTION

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. *See* 37 C.F.R. §2.191; TMEP §§304.01-.02, 709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal(s) and/or requirement(s) in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant’s rights. *See* TMEP §§705.02, 709.06.

/Barney L. Charlon/
Trademark Examining Attorney
Law Office 104
(571) 272-9141
(571) 273-9104 (fax)
barney.charlon@uspto.gov

TO RESPOND TO THIS LETTER: Go to http://www.uspto.gov/trademarks/teas/response_forms.jsp. Please wait 48-72 hours from the issue/ mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

All informal e-mail communications relevant to this application will be placed in the official application record.

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or

EXHIBIT "D"

someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

Print: Apr 24, 2013

76702264

DESIGN MARK

Serial Number

76702264

Status

REGISTERED

Word Mark

GW

Standard Character Mark

No

Registration Number

4056527

Date Registered

2011/11/15

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

PRIMARY HOSPITALITY GROUP LLC LIMITED LIABILITY COMPANY ILLINOIS 125 S
WACKER DR STE 3010 CHICAGO ILLINOIS 60606

Goods/Services

Class Status -- ACTIVE. IC 043. US 100 101. G & S: Restaurant
services featuring sandwiches. First Use: 2010/10/01. First Use In
Commerce: 2010/10/01.

Description of Mark

The color yellow appears in the stylized letters "GW". The color gray
is for background purposes only and is not part of the mark.

Colors Claimed

The color(s) yellow is/are claimed as a feature of the mark.

Filing Date

2010/03/29

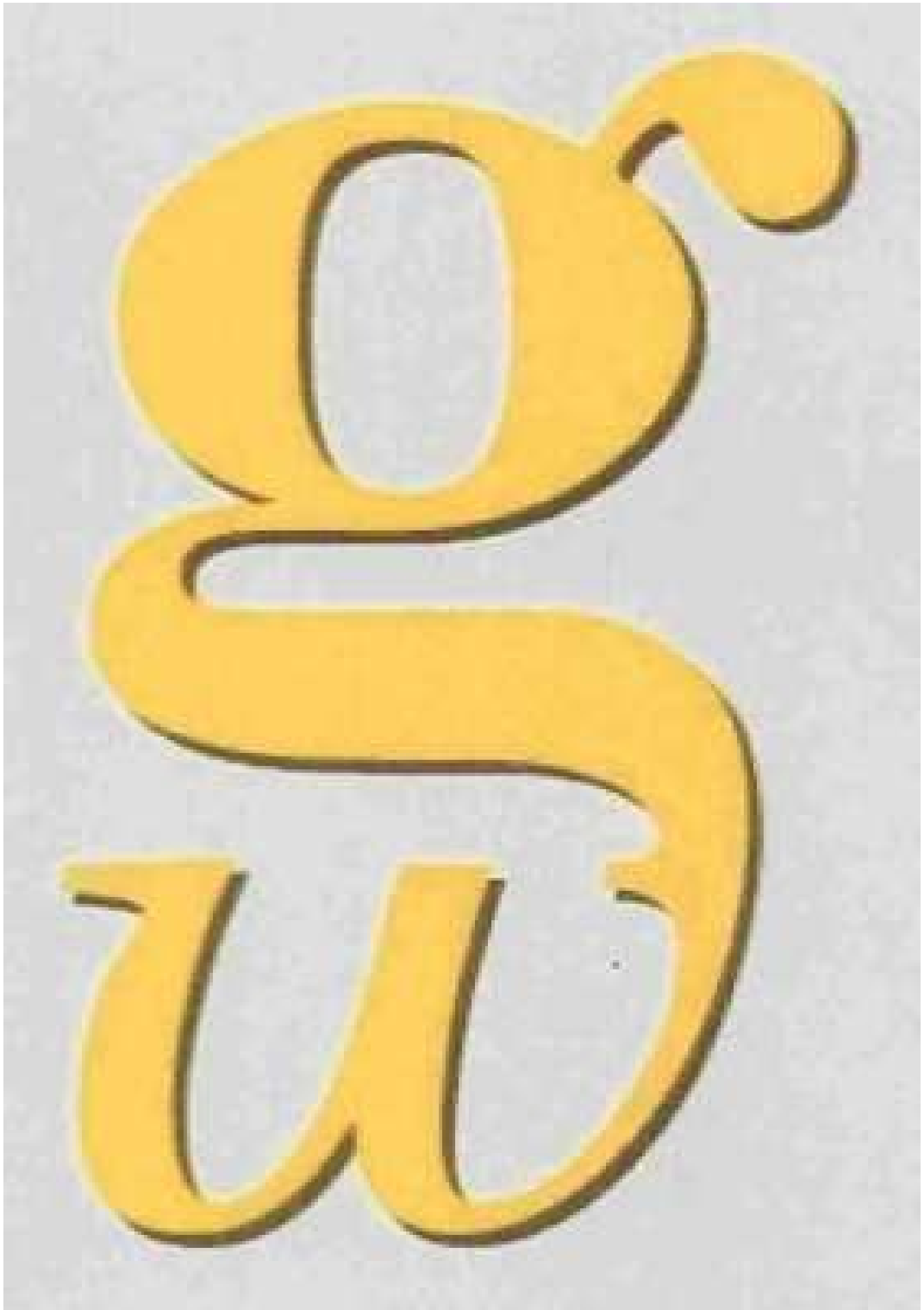
Examining Attorney

BRADLEY, EVELYN

Print: Apr 24, 2013

76702264

Attorney of Record
Harlan D. Kahn



Print: Apr 24, 2013

77677244

DESIGN MARK

Serial Number

77677244

Status

REGISTERED

Word Mark

JJ FIN'S DOCKSIDE

Standard Character Mark

Yes

Registration Number

3871104

Date Registered

2010/11/02

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

Enderle, Kevin INDIVIDUAL UNITED STATES 4022 Macintosh Rd. Dover
FLORIDA 33527

Goods/Services

Class Status -- ACTIVE. IC 043. US 100 101. G & S: Restaurant and
bar services. First Use: 2009/02/24. First Use In Commerce:
2009/02/24.

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "DOCKSIDE" APART FROM
THE MARK AS SHOWN.

Colors Claimed

Color is not claimed as a feature of the mark.

Filing Date

2009/02/24

Examining Attorney

HINES, REGINA

JJ FIN'S DOCKSIDE

Print: Apr 24, 2013

77721451

DESIGN MARK

Serial Number

77721451

Status

REGISTERED

Word Mark

JJ FIN'S

Standard Character Mark

No

Registration Number

3887197

Date Registered

2010/12/07

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

Enderle, Kevin INDIVIDUAL UNITED STATES 4022 Macintosh Rd. Dover
FLORIDA 33527

Goods/Services

Class Status -- ACTIVE. IC 043. US 100 101. G & S: Restaurant and
bar services. First Use: 2009/02/24. First Use In Commerce:
2009/02/24.

Name/Portrait Statement

The name(s), portrait(s), and/or signature(s) shown in the mark does
not identify a particular living individual.

Description of Mark

The mark consists of the letters "JJ" (stylized - smaller fonts) in a
shape of fishing hooks or "J" hooks that hang on the left side of the
design; the word "FIN'S" (Stylized - bigger fonts) next to the letter
"JJ" with a stylized fin appearing at the top of the letter "F" in
"FIN'S"; shaded oval shape as the background and border of the
lettering "JJ FIN'S".

Colors Claimed

Print: Apr 24, 2013

77721451

Color is not claimed as a feature of the mark.

Filing Date

2009/04/24

Examining Attorney

LOVELACE, JAMES



Print: Apr 24, 2013

77814333

DESIGN MARK

Serial Number

77814333

Status

REGISTERED

Word Mark

GW CHEESESTEAKS

Standard Character Mark

Yes

Registration Number

3783852

Date Registered

2010/05/04

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

Great Wraps, Inc. CORPORATION GEORGIA Suite 315 4 Executive Park East
Atlanta GEORGIA 30329

Goods/Services

Class Status -- ACTIVE. IC 029. US 046. G & S: Sandwiches. First
Use: 2009/07/10. First Use In Commerce: 2009/07/10.

Goods/Services

Class Status -- ACTIVE. IC 043. US 100 101. G & S: Restaurant and
fast food services. First Use: 2009/07/10. First Use In Commerce:
2009/07/10.

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CHEESESTEAKS" APART
FROM THE MARK AS SHOWN.

Filing Date

2009/08/27

Examining Attorney

ABRAMS, JACQUELINE A.

Print: Apr 24, 2013

77814333

Attorney of Record

Stephen M. Dorvee, Esq.

GW CHEESESTEAKS

Print: Apr 24, 2013

72196866

TYPED DRAWING

Serial Number

72196866

Status

REGISTERED AND RENEWED

Word Mark

JACK'S

Standard Character Mark

No

Registration Number

0793082

Date Registered

1965/07/20

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

JACK'S FAMILY RESTAURANTS, INC. CORPORATION ALABAMA 124 WEST OXMOOR
ROAD HOMEWOOD ALABAMA 35209

Goods/Services

Class Status -- ACTIVE. IC 042. US 100. G & S: RESTAURANT
SERVICES-NAMELY, DRIVE-IN RESTAURANTS SPECIALIZING IN THE SERVING OF
SANDWICHES, SEAFOOD, AND NONALCOHOLIC BEVERAGES. First Use:
1961/12/01. First Use In Commerce: 1964/06/04.

Filing Date

1964/07/01

Examining Attorney

UNKNOWN

Print: Apr 24, 2013

85531647

DESIGN MARK

Serial Number

85531647

Status

REGISTERED

Word Mark

SKOGIES

Standard Character Mark

No

Registration Number

4205419

Date Registered

2012/09/11

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

Lakeside Restaurants, Inc. CORPORATION GEORGIA 2260 Mars Hill Road
Watkinsville GEORGIA 30677

Goods/Services

Class Status -- ACTIVE. IC 043. US 100 101. G & S: Restaurant services; Restaurant services featuring fish, chicken, seafood, sandwiches, side dishes, salads; Restaurant services, including sit-down service of food and take-out restaurant services; Restaurant services, namely, providing of food and beverages for consumption on and off the premises. First Use: 2005/07/31. First Use In Commerce: 2005/07/31.

Description of Mark

The mark consists of a stylistic rendering of a fish with the stylistic literal element "SkogieS" integrated into the stylistic rendering of the fish with the lower portion of the first "S" and the descending portion of the "g" forming portions of the belly of the stylistic rendering of the fish and the second "S" forming the tail of the stylistic rendering of the fish, the stylistic rendering of the fish including a fin on the top and various sized bubbles over the front of the stylistic rendering of the fish.

Print: Apr 24, 2013

85531647

Colors Claimed

Color is not claimed as a feature of the mark.

Filing Date

2012/02/01

Examining Attorney

CATALDO, CAROLYN

Attorney of Record

Gregory Scott Smith



Print: Apr 24, 2013

85583061

DESIGN MARK

Serial Number

85583061

Status

REGISTERED

Word Mark

SOUVLAKI FAST

Standard Character Mark

Yes

Registration Number

4259489

Date Registered

2012/12/11

Type of Mark

SERVICE MARK

Register

SUPPLEMENTAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

Bichler, Margaret INDIVIDUAL UNITED STATES 9526 Osprey Isles Blvd.
West Palm Beach FLORIDA 33412

Owner

Zambiyadis, Zafeiris INDIVIDUAL UNITED STATES 9526 Osprey Isles Blvd
West Palm Beach FLORIDA 33412

Goods/Services

Class Status -- ACTIVE. IC 043. US 100 101. G & S: Restaurant services featuring Greek cuisine including marinated and grilled meat, seafood, and vegetables served on a salad, in a pita sandwich, or with rice or french fries; Restaurant services, including sit-down service of food and take-out restaurant services. First Use: 2010/04/01. First Use In Commerce: 2010/05/01.

Filing Date

2012/03/29

Amended Register Date

2012/10/18

Print: Apr 24, 2013

85583061

Examining Attorney
MITTLER, ROBIN

SOUVLAKI fast

Print: Apr 24, 2013

76103983

DESIGN MARK

Serial Number

76103983

Status

CANCELLED - SECTION 8

Word Mark

GW FINS

Standard Character Mark

No

Registration Number

2589595

Date Registered

2002/07/02

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

Little Fish Big Pond, LLC LIMITED LIABILITY CORPORATION LOUISIANA 1805
State Street New Orleans LOUISIANA 70118

Goods/Services

Class Status -- SECTION 8 - CANCELLED. IC 042. US 100 101. G & S:
Fine Dining Seafood Restaurant. First Use: 2000/08/07. First Use In
Commerce: 2001/04/01.

Filing Date

2000/08/07

Examining Attorney

ROBINSON, JOHANNA

GW FINS

Print: Apr 24, 2013

76535619

DESIGN MARK

Serial Number

76535619

Status

CANCELLED - SECTION 8

Word Mark

SEAFOOD AT ITS SEASONAL PEAK

Standard Character Mark

No

Registration Number

2888616

Date Registered

2004/09/28

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

Little Fish Big Pond LIMITED LIABILITY COMPANY LOUISIANA 808 Bienville
St. New Orleans LOUISIANA 70112

Goods/Services

Class Status -- SECTION 8 - CANCELLED. IC 043. US 100 101. G & S:
Restaurant services. First Use: 2001/03/01. First Use In Commerce:
2001/03/01.

Filing Date

2003/07/24

Examining Attorney

EULIN, INGRID

SEAFOOD AT ITS SEASONAL PEAK

To: Little Fish/Big Pond, L.L.C. (docket-ip@mcglinchey.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85814951 - GW FINS - T-1297
Sent: 4/24/2013 6:45:42 PM
Sent As: ECOM104@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

**IMPORTANT NOTICE REGARDING YOUR
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED
ON **4/24/2013** FOR U.S. APPLICATION SERIAL NO. 85814951

Please follow the instructions below:

(1) TO READ THE LETTER: Click on this [link](#) or go to <http://tsdr.uspto.gov>, enter the U.S. application serial number, and click on "Documents."

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) TIMELY RESPONSE IS REQUIRED: Please carefully review the Office action to determine (1) how to respond, and (2) the applicable response time period. Your response deadline will be calculated from **4/24/2013** (or sooner if specified in the Office action). For information regarding response time periods, see <http://www.uspto.gov/trademarks/process/status/responsetime.jsp>.

Do NOT hit "Reply" to this e-mail notification, or otherwise e-mail your response because the USPTO does NOT accept e-mails as responses to Office actions. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System (TEAS) response form located at http://www.uspto.gov/trademarks/teas/response_forms.jsp.

(3) QUESTIONS: For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail TSDR@uspto.gov.

WARNING

Failure to file the required response by the applicable response deadline will result in the ABANDONMENT of your application. For more information regarding abandonment, see

EXHIBIT "D"

<http://www.uspto.gov/trademarks/basics/abandon.jsp>.

PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION: Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see http://www.uspto.gov/trademarks/solicitation_warnings.jsp.