

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

WHATABRANDS LLC,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. 1:24-CV-482
	§	
WHAT-A-BURGER #13, INC.,	§	JURY DEMANDED
WHAT-A-BURGER #13 LOCUST	§	
PARTNERS, LLC, WHAT-A-	§	
BURGER 13 MOBILE FOOD, LLC,	§	
WAB #13, LLC, and Zeb Bost,	§	
Defendants.	§	

ORIGINAL COMPLAINT

Plaintiff Whatabrands LLC (“Whataburger”) brings this complaint for trademark infringement and unfair competition under federal and state law and breach of contract under state law against Defendants What-A-Burger #13, Inc., What-A-Burger #13 Locust Partners, LLC, What-A-Burger 13 Mobile Food, LLC, WAB #13, LLC, and Zeb Bost (collectively, “Defendants”).

NATURE OF ACTION AND JURISDICTION

1. This is an action for trademark infringement and unfair competition 15 U.S.C. §§ 1114 and 1125(a); unfair and deceptive trade practices under N.C. Gen. Stat. § 75-1.1; and breach of contract and unfair competition under North Carolina common law.

2. This Court has jurisdiction over the subject matter of this action under 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 & 1338. This Court has supplemental jurisdiction over the state law claims under 28 U.S.C. § 1367(a).

3. Defendants are subject to personal jurisdiction and venue in this District given their contacts with the state of North Carolina. Defendants reside in this District and a substantial part of the events giving rise to the allegations occurred here.

THE PARTIES

4. Plaintiff Whataburger is a Texas limited liability company with a principal office at 300 Concord Plaza Drive, San Antonio, TX 78216.

5. Defendant What-A-Burger #13, Inc. is a North Carolina corporation with a principal office at 8330 W Franklin St., Mount Pleasant, NC 28124.

6. Defendant What-A-Burger #13 Locust Partners, LLC is a North Carolina limited liability company with a principal office at 5410 Trinity Rd., Ste. 210, Raleigh, NC 27607.

7. Defendant What-A-Burger 13 Mobile Food, LLC is a North Carolina limited liability company with an address of 17412 Randall's Ferry Rd., Norwood, NC 28128.

8. Defendant WAB #13, LLC is a North Carolina limited liability company with an address of 17412 Randall's Ferry Rd., Norwood, NC 28128.

9. On information and belief, Defendant Zeb Bost is an individual with an address of 17412 Randall's Ferry Rd., Norwood, NC 28128. Mr. Bost owns or otherwise controls the other Defendants.

10. Defendants What-A-Burger #13, Inc., What-A-Burger #13 Locust Partners, LLC, and Defendant What-A-Burger 13 Mobile Food, LLC are referenced herein as "Signatory Defendants."

FACTUAL BACKGROUND

A. The Iconic Whataburger

11. Founded in 1950, Whataburger started as a single hamburger stand in Corpus Christi, Texas owned by Harmon Dobson, whose plan was to “make a better burger that took two hands to hold and tasted so good that when you took a bite you would say ‘What a burger!’”

12. The plan worked. Today, Whataburger operates over 1,000 restaurants across 16 states. It annually serves over 60 million customers. And while it now offers an array of food and beverage items aside from hamburgers, its burgers have won the “Best Burgers in America” contest and are routinely ranked by food publications among the nation’s best.

13. Whataburger’s footprint extends beyond its restaurants, with retail versions of its popular condiments and sauces, as well as other food items, available in over 5,000 grocery stores in 25 states and in Mexico. For its 70th anniversary in 2020, Whataburger launched its Whataburger Food Truck, which has embarked on multi-state tours and appears at a variety of public events.

14. Goodwill in the WHATABURGER Mark among non-Texans is equivalent. Local news outlets in disparate places like New Mexico, Arkansas, and South Carolina often publish articles reflecting public excitement surrounding the potential opening of a new Whataburger location in their state. When the first Whataburger opened in Atlanta in 2022, customers waited—day and night—in lines that stretched blocks from the restaurant.

B. Whataburger's Nationwide Trademark Rights

15. Whataburger has continuously and extensively used the mark WHATABURGER (the "WHATABURGER Mark") for an array of restaurant services and food products, among other goods and services, since 1950.

16. Whataburger has widely advertised and promoted its goods and services under the WHATABURGER Mark and received significant national publicity for its offerings.



17. The WHATABURGER Mark is inherently distinctive and serves to identify the source of Whataburger's offerings to the public and to distinguish its offerings from others.


18. Additionally, as a result of Whataburger's extensive use and promotion of the WHATABURGER Mark, and its investment of significant effort and resources in advertising and promoting its WHATABURGER Mark, the WHATABURGER Mark has become distinctive and is recognized by consumers, who have come to know, rely on, and recognize the goods and services of Whataburger by these marks.

19. Whataburger owns strong common law rights in the WHATABURGER Mark.

20. The WHATABURGER Mark is famous within multiple states.

21. Whataburger owns numerous federal trademark registrations issued by the United State Patent and Trademark Office covering the WHATABURGER Mark and other WHATABURGER formative marks, including those listed in the chart below.

Mark	Reg. No.	Reg. Date	Goods/Services
WHATABURGER	652137	9/24/1957	Class 30: Hamburger sandwich
WHATABURGER	891082	5/12/1970	Class 42: Restaurant services and drive in restaurant services
WHATABURGER	1011927	5/27/1975	Class 29: Hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages Class 32: Soft drinks Class 42: Restaurant and drive-in restaurant services
	1011928	5/27/1975	Class 29: Hamburgers, cheeseburgers, french fried potatoes, fried pies, onion rings, malt and shake beverages, and frankfurter sandwiches Class 32: Soft drinks Class 42: Restaurant and drive-in restaurant services
WHATABURGER JR.	1014196	6/24/1975	Class 29: Prepared hamburger sandwich for consumption on or off the premises
WHATABURGER	2335590	3/28/2000	Class 42: Restaurant Services
WHATABURGER	2757109	8/26/2003	Class 36: Charitable fundraising services
WHATABURGER FIELD	3188132	12/19/2006	Class 41: Providing stadium facilities for sporting events, exhibitions, conventions, community festival events and concerts
	3188136	12/19/2006	Class 41: Providing stadium facilities for sporting events, exhibitions, conventions, community festival events and concerts

	4592132	8/26/2014	Class 41: Providing stadium facilities for sporting events, exhibitions, conventions, community festival events and concerts
WHATABURGER	4845240	11/3/2015	Class 43 (excerpt): Food preparation services . . . drive-in restaurant services . . . group meal services, namely, providing takeout restaurant services to groups travelling by automobile, truck or bus, school meal preparation services, and preparation of meals for consumption by groups of travelers on or off the premises; carryout restaurant services; cafe services; restaurant services featuring breakfast foods and beverages; fast-food restaurant services; preparation of beverages for consumption on or off the premises . . . restaurant services featuring hamburgers, cheeseburgers, chicken sandwiches, fish sandwiches and other meat sandwiches; fast casual restaurant services; drive-through restaurant services . . . dine-in restaurant services; quick service restaurant services . . .
WHATABURGER	4921566	3/22/2016	Class 29 (excerpt): Hamburger; savory potato based snack foods; salads, namely, garden salads, vegetable salads, fruit salads, meat salads, chicken salads, prepared protein salads, garden salads with grilled or fried meat or poultry, vegetable salads, with grilled or fried meat or poultry; dried fruits; potato fries; salads, except macaroni, rice and pasta salads; combination meals consisting primarily of processed chicken breast and chicken breast chunks served as breaded and fried chicken nuggets, strips, tenders, bites, or morsels, dipping sauces, fries, and a drink for consumption on or off the premises . . .

WHATABURGER	4921567	3/22/2016	Class 30 (excerpt): Hamburger sandwiches . . . cheeseburger sandwiches . . . breakfast sandwiches consisting of eggs, bacon, sausage, cheese, and/or condiments; honey barbecue sauce; fried fruit pies and pastries; grilled food products for consumption on or off the premises, namely, grilled meat sandwiches, grilled chicken sandwiches, grilled cheese sandwiches, grilled vegetable sandwiches . . . pancake mix . . . honey butter sauce; salad dressings . . . pancake syrup; jalapeno cheddar biscuits . . . condiments, namely, barbeque sauce, dipping sauces, ketchup, mayonnaise, mustard, pancake syrup, salad dressings, vinaigrettes, honey mustard salad dressing, tartar sauce, honey barbeque sauce, creamy pepper sauce, jalapeno ranch sauce, peppercorn ranch sauce, honey mustard, pepper, salt, and sugar substitutes . . .
WHATABURGER	4921568	3/22/2016	Class 32: Beverages, namely, non-alcoholic beverages in the nature of fruit beverages and carbonated beverages; soft drinks for consumption on or off the premises; non-alcoholic drinks sold for consumption on or off the premises, namely, fruit juices, fruit flavored drinks, sports drinks, fruit punch, drinking water, lemonade, non-frozen non-alcoholic carbonated beverages; carbonated and non-carbonated soft drinks and fruit juices; soft drinks

22. Each of the registrations listed in the chart above is valid, subsisting, and has become incontestable under 15 U.S.C. § 1065. True and correct copies of the corresponding registration certificates are attached hereto as **Exhibit A**.

23. Whataburger's federal trademark registrations are "conclusive evidence" of the validity of the WHATABURGER Mark, as well as Whataburger's continuous use of the WHATABURGER Mark, ownership of rights in the WHATABURGER Mark, and exclusive right to use the WHATABURGER Mark with the registered goods and services, as well as related goods and services, under 15 U.S.C. § 1115.

24. Whataburger's federal registrations confer upon Whataburger nationwide priority in the right to use the WHATABURGER Mark and to exclude others from using the same or confusingly similar marks subsequent to the issuance of Whataburger's first registration in 1957.

C. Whataburger's Expansion to North Carolina

25. Whataburger opened its first location outside of Texas in 1959 and has long operated restaurants across the southwest and southern United States.

26. In 2020, Whataburger publicly announced plans to enter new markets and begin franchising its restaurants for the first time in almost 20 years.

27. Between 2020 and 2022, Whataburger expanded its geographic footprint from 10 to 14 states with new locations in Missouri, Tennessee, Colorado, and Kansas.

28. In 2024, Whataburger opened its 1000th location and expanded its footprint to 16 states with new locations in Nevada on The Strip in Las Vegas and in Greenville, South Carolina.

29. Local news outlets in North Carolina began speculating as early as 2022 about Whataburger's potential expansion into the state.

30. In April 2024, Whataburger publicly confirmed the reports of its plans to open restaurants in North Carolina sometime in 2025.

D. Defendants and their What-a-Burger #13 Business

31. Defendants offer restaurant services in North Carolina using the name and mark What-A-Burger #13 (the “What-A-Burger #13” Mark).

32. Defendants offer goods and services that are identical to Whataburger’s offerings, and identical or highly related to the goods and services covered by Whataburger’s federal registrations.

33. As reflected in signage at Defendants’ restaurants and on their website and food trucks, Defendants claim they began using the What-A-Burger #13 Mark in connection with their business no earlier than 1969—over a decade after Whataburger received its first federal trademark registration for the WHATABURGER Mark.

34. Each Defendant uses the What-A-Burger #13 Mark in connection with two brick-and-mortar restaurants located in North Carolina with addresses at 8330 West Franklin Street, Mount Pleasant, North Carolina, and 101 North Central Avenue, Locust, North Carolina and/or in connection with one or more mobile food trucks.

E. The Parties’ Coexistence Agreement

35. Whataburger contacted certain of Defendants on October 13, 2022 in anticipation of its entry into North Carolina to notify them that continued use of their What-A-Burger #13 Mark creates a likelihood of confusion and thus infringes the WHATABURGER Mark given Whataburger’s nationwide priority in its WHATABURGER Mark as of 1957.

36. Signatory Defendants and Whataburger ultimately signed a confidential coexistence agreement (the “Agreement”) permitting limited uses of the What-A-Burger #13 Mark by Signatory Defendants under controlled conditions. The Agreement has an Effective Date of May 19, 2023.

37. The Agreement includes a term that Signatory Defendants could not use the What-A-Burger #13 Mark except as expressly allowed by the terms of the Agreement.

38. Per the Agreement, Signatory Defendants could use the What-A-Burger #13 Mark only in connection with their existing brick-and-mortar locations (identified above) and in connection with their then-existing single food truck in limited ways.

39. The Agreement specifies consequences in the event of certain types of breaches.

40. In addition to binding Signatory Defendants, the Agreement states its terms bind Signatory Defendants’ affiliated parties.

41. The Agreement was signed by Defendant Bost on behalf of Signatory Defendants.

42. On information and belief, Defendant WAB #13, LLC was formed at the direction of Defendant Bost days before Defendant Bost signed the Agreement on behalf of Signatory Defendants, and its formation was not disclosed to Whataburger.

43. Defendants represent WAB #13, LLC as part of a single “small, family owned, fast paced business” founded in 1969, along with Signatory Defendants.

F. Defendants' Breach of the Agreement

44. Defendants have used and continue to use their What-A-Burger #13 Mark in connection with their food trucks in ways that were not allowed under the Agreement.

45. Defendants' use of the What-A-Burger #13 Mark in connection with their food trucks in ways not allowed under the Agreement constitute one or more breaches of the Agreement.

46. Defendant Bost's formation of Defendant WAB #13, LLC days before signing the Agreement was an apparent attempt to circumvent the purpose and intention of Signatory Defendants' deal with Whataburger.

47. Whataburger contacted Defendants on April 9, 2024 to notify Defendants of at least four occasions in which Defendants' use was in violation of the Agreement.

48. Defendants failed to cure their breaches of the Agreement within any time allowed under the Agreement.

49. Defendants have continued to violate the Agreement after multiple notices from Whataburger.

50. Under the terms of the Agreement, Defendants' repeated and uncured breaches of the Agreement triggered the automatic remedies and consequences specified in the Agreement.

51. Under the terms of the Agreement, Defendants' repeated and uncured breaches of the Agreement caused the Agreement to automatically terminate by its own terms.

52. Defendants agreed that, upon termination of the Agreement, they would immediately cease all use of the What-A-Burger #13 Mark for any purpose.

53. Defendants continued to use the What-A-Burger #13 Mark after termination of the Agreement, and such continued use constitutes additional breaches of the Agreement.

G. Effects of Defendants' Unauthorized Use of the What-A-Burger #13 Mark

54. Defendants' continued and ongoing use of the What-A-Burger #13 Mark is without authorization, either under the Agreement or otherwise.

55. Defendants' unauthorized use of the What-A-Burger #13 Mark is likely to cause confusion, to cause mistake, or to deceive customers and potential customers of the parties as to some affiliation, connection, or association of Defendants' business with Whataburger, or as to the origin, sponsorship, or approval of Defendants' goods or services.

56. Defendants' unauthorized use of the What-A-Burger #13 Mark falsely indicates to the purchasing public that Defendants, their business, and their services originate with Whataburger; or are affiliated or associated with Whataburger; or are sponsored, endorsed, or approved by Whataburger; or are otherwise related to Whataburger or its services.

57. Defendants' unauthorized use of the What-A-Burger #13 Mark falsely designates the origin of its products and services and falsely and misleadingly describes and represents facts with respect to Defendants and their products and services.

58. Defendants' unauthorized use of the What-A-Burger #13 Mark enables Defendants to trade on and receive the benefit of goodwill built up at great labor and expense by Whataburger over many years and to gain acceptance for Defendants' products and services not solely on their own merits, but on the reputation and goodwill of Whataburger, its WHATABURGER Mark, and Whataburger's products and services.

59. Defendants' unauthorized use of the What-A-Burger #13 Mark removes from Whataburger the ability to control the nature and quality of products and services provided under its WHATABURGER Mark and places the valuable reputation and goodwill of Whataburger in the hands of Defendants, over whom Whataburger has no control.

60. Defendants' unauthorized use of the What-A-Burger #13 Mark causes irreparable harm to Whataburger and to the public.

61. In addition to Signatory Defendants, Defendant WAB #13, LLC is liable to Whataburger for all claims, including because it is an affiliated party to the Signatory Defendants and commonly owned or controlled by Defendant Bost.

62. Defendant Bost is personally liable for the acts described herein, as he is an affiliated party to the Signatory Defendants and has actively participated in the activities, including acts constituting trademark infringement, that he has authorized and approved.

63. Unless these acts by Defendants are restrained by this Court, they will continue, and they will continue to cause irreparable harm to Whataburger and to the public for which there is no adequate remedy at law.

COUNT I: FEDERAL TRADEMARK INFRINGEMENT

64. Whataburger repeats the allegations above as if fully set forth herein.

65. Defendants' acts complained of herein constitute infringement of Whataburger's federally registered WHATABURGER Mark in violation of 15 U.S.C. § 1114(1).

66. This is an exceptional case pursuant to 15 U.S.C. § 1117(a).

67. Defendants' infringing conduct is likely to cause substantial injury to the public and to Whataburger, and Whataburger is entitled to injunctive relief and to recover damages, pursuant to 15 U.S.C. §§ 1114, 1116, and 1117.

COUNT II: FEDERAL UNFAIR COMPETITION

68. Whataburger repeats the allegations above as if fully set forth herein.

69. Defendants' acts complained of herein constitute unfair competition in violation of 15 U.S.C. § 1125(a).

70. Defendants' actions are likely to cause confusion and mistake and to deceive customers, potential customers, and the public as to the true affiliation, connection, or association of Defendants and their products and services in violation of 15 U.S.C. § 1125(a)(1), and Whataburger is entitled to injunctive relief, and to recover damages and reasonable attorneys' fees pursuant to 15 U.S.C. §§ 1116 and 1117.

COUNT III: BREACH OF CONTRACT

71. Whataburger repeats the allegations above as if fully set forth herein. Defendants' acts complained of herein constitute breach of contract in violation of North Carolina common law.

72. As a direct and proximate result of Defendants' breach of the Agreement, Whataburger has suffered damages in amount to be proven at trial, together with interest from the date of the breach.

COUNT IV: UNFAIR AND DECEPTIVE TRADE PRACTICES

73. Whataburger repeats the allegations above as if fully set forth herein.

74. Defendants have and are engaged in acts affecting commerce and business activities in the state of North Carolina and constituting unfair business practices in violation of the North Carolina Unfair Business Practices Act, N.C. Gen. Stat. § 75-1.1.

75. Defendants' acts complained of herein, including, but not limited to, Defendants' creation of a new corporate entity while negotiating the Agreement with Whataburger in an apparent attempt to circumvent the purpose and intention of the Agreements' obligations on Signatory Defendants, constitute unfair or deceptive acts or practices in or affecting commerce in violation of N.C. Gen. Stat. 75-1.1.

76. Defendants' conduct has caused Whataburger irreparable injury. Unless enjoined by the Court, Defendants will continue to cause Whataburger injury. Whataburger is entitled to recover damages, costs and reasonable attorneys' fees from Defendants, pursuant to N.C.G.S. § 75-1.1, et seq.,

COUNT V: COMMON LAW UNFAIR COMPETITION

77. Whataburger repeats the allegations above as if fully set forth herein.

78. Defendants' acts complained of herein constitute unfair competition in violation of North Carolina common law.

DEMAND FOR RELIEF

WHEREFORE, Whataburger demands that:

(a) Defendants, their officers, agents, servants, employees, and attorneys, and other persons who are in active concert or participation with any of them, be permanently enjoined and restrained from using the WHAT-A-BURGER #13 Mark and any other mark that is confusingly similar to Whataburger's WHATABURGER Mark, and from any attempt to retain any part of the goodwill misappropriated from Whataburger;

(b) Defendants be ordered to destroy any signage in violation of section (a) above;

(c) Defendants be ordered to transfer to Whataburger the domain name whataburger13.com and any other domain name Defendants own that includes "Whataburger," "What-a-Burger," or any confusingly similar term;

(d) Defendants be ordered to file with this Court and to serve upon Whataburger, within thirty (30) days after the entry and service on Defendants of an injunction, a report in writing and under oath setting forth in detail the manner and form in which Defendants have complied with the injunction;

(e) Whataburger recover all liquidated damages to which it is entitled under the Agreement;

(f) Whataburger recover all damages it has sustained as a result of Defendants' activities, and that said damages be trebled;

(g) An accounting be directed to determine Defendants' profits resulting from its activities, and that such profits be paid over to Whataburger, increased as the Court finds to be just under the circumstances of this case;

(h) Whataburger recover its reasonable attorney fees;

(i) Whataburger recover its costs of this action and prejudgment and post-judgment interest; and

(j) Whataburger recover such other relief as the Court may deem appropriate.

JURY DEMAND

Whataburger demands a jury trial in accordance with Federal Rule of Civil Procedure 38(b).

Respectfully submitted this 11th day of June, 2024.

BELL, DAVIS & PITT

/s/ Kevin G. Williams

Kevin G. Williams

N.C. State Bar No. 25760

Carson D. Schneider

N.C. State Bar No. 59953

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**Special Appearance Under Local Rule
83.1(d) in process.*

Attorneys for Plaintiff

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Whatabrands LLC

(b) County of Residence of First Listed Plaintiff Bexar, TX
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*

Kevin G. Williams, Bell, Davis, & Pitt, P.A.
P.O. Box 21029, Winston Salem, NC 27120

DEFENDANTS

What-A-Burger #13, Inc. et al.,

County of Residence of First Listed Defendant Cabarrus
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- 1 U.S. Government Plaintiff
- 3 Federal Question *(U.S. Government Not a Party)*
- 2 U.S. Government Defendant
- 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated <i>or</i> Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated <i>and</i> Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input checked="" type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN *(Place an "X" in One Box Only)*

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District *(specify)*
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
 15 U.S.C. §§ 1114 & 1125(a), N.C.G.S. § 75-1.1,
 Brief description of cause:
 Federal Trademark Infringement, Unfair competition, Deceptive trade practices

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY *(See instructions):* JUDGE _____ DOCKET NUMBER _____

DATE 06/11/2024 SIGNATURE OF ATTORNEY OF RECORD /s/ Kevin G. Williams

FOR OFFICE USE ONLY RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related cases, if any. If there are related cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

EXHIBIT A

United States of America

United States Patent and Trademark Office

WHATABURGER

Reg. No. 652,137

Registered Sep. 24, 1957

Amended Dec. 04, 2018

U.S. Cl.: 46

Trademark

Principal Register

TRES AGUILAS ENTERPRISES LLC (TEXAS LIMITED LIABILITY COMPANY)
300 Concord Plaza Drive
San Antonio, TEXAS 78216

CLASS 46: HAMBURGER SANDWICH

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

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

SER. NO. 71-667,794, FILED 06-07-1954



Andrei Iancu

Director of the United States
Patent and Trademark Office

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 CORPO-
RATION)
4600 PARKDALE DRIVE
CORPUS CHRISTI, TX 78411, ASSIGNEE
BY ASSIGNMENT, MERGER AND
CHANGES OF NAME FROM DOBSON,
GRACE W. (UNITED STATES CITI-
ZEN), DOING BUSINESS AS WHATA-
BURGER DRIVE INNS, CORPUS
CHRISTI, TX

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

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.

*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 45
(INT. CL. 32).

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

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

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

COMMISSIONER OF PATENTS AND TRADEMARKS

2

1,011,928

FURTER SANDWICHES, IN CLASS 46
(INT. CLS. 29 AND 30).

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

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

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

SER. NO. 72-442,465, FILED 11-29-1972.

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent Office

Reg. No. 1,014,196

Registered June 24, 1975

TRADEMARK

Principal Register

WHATABURGER JR.

Grace Dobson Lutz
3104 S. Alameda
Corpus Christi, Tex. 78411

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

First use Apr. 1, 1973; in commerce Aug. 29, 1973.
Owner of Reg. Nos. 652,137, 891,082 and 963,811.

Ser. No. 7,283, filed Nov. 26, 1973.

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,335,590

United States Patent and Trademark Office

Registered Mar. 28, 2000

**SERVICE MARK
PRINCIPAL REGISTER**

WHATABURGER

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

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

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

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

DAVID ETTINGER, EXAMINING ATTORNEY

Int. Cl.: 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 LIMITED 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.: 41

Prior U.S. Cls.: 100, 101, and 107

Reg. No. 3,188,132

United States Patent and Trademark Office

Registered Dec. 19, 2006

**SERVICE MARK
PRINCIPAL REGISTER**

WHATABURGER FIELD

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

FOR: PROVIDING STADIUM FACILITIES FOR SPORTING EVENTS, EXHIBITIONS, CONVENTIONS, COMMUNITY FESTIVAL EVENTS AND CONCERTS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 4-6-2005; IN COMMERCE 4-6-2005.

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

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

SN 78-598,999, FILED 3-31-2005.

JUDITH HELFMAN, EXAMINING ATTORNEY

Int. Cl.: 41

Prior U.S. Cls.: 100, 101, and 107

Reg. No. 3,188,136

United States Patent and Trademark Office

Registered Dec. 19, 2006

SERVICE MARK
PRINCIPAL REGISTER



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

FOR: PROVIDING STADIUM FACILITIES FOR SPORTING EVENTS, EXHIBITIONS, CONVENTIONS, COMMUNITY FESTIVAL EVENTS AND CONCERTS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 4-6-2005; IN COMMERCE 4-6-2005.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "FIELD CORPUS CHRISTI", APART FROM THE MARK AS SHOWN.

SN 78-599,894, FILED 4-1-2005.

JUDITH HELFMAN, EXAMINING ATTORNEY

United States of America

United States Patent and Trademark Office



Reg. No. 4,592,132

Registered Aug. 26, 2014

Int. Cl.: 41

SERVICE MARK

PRINCIPAL REGISTER

TRES AGUILAS ENTERPRISES LLC (TEXAS LIMITED LIABILITY COMPANY)
300 CONCORD PLAZA DRIVE
SAN ANTONIO, TX 78216

FOR: PROVIDING STADIUM FACILITIES FOR SPORTING EVENTS, EXHIBITIONS, CONVENTIONS, COMMUNITY FESTIVAL EVENTS AND CONCERTS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 4-6-2005; IN COMMERCE 4-6-2005.

OWNER OF U.S. REG. NOS. 652,137, 3,188,132, AND 3,188,136.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "FIELD CORPUS CHRISTI", APART FROM THE MARK AS SHOWN.

THE MARK CONSISTS OF THE WORD "WHATABURGER" CENTERED IN A HORIZONTALLY ORIENTED RECTANGLE DESIGN WITH CURVED CORNERS; ABOVE THE RECTANGLE DESIGN IS CIRCULAR CLOCK WITH A BASEBALL DESIGN ON THE FACE OF THE CLOCK CENTERED IN AN ARCH DESIGN; BELOW THE RECTANGLE DESIGN IS THE BOTTOM HALF OF A CROSS SHAPED DESIGN WITH CURVED CORNERS AND THE STYLIZED WORD "FIELD" IN THE CENTER; THE WORD "CORPUS" ON THE LEFT SIDE OF THE WORD "FIELD" AND THE WORD "CHRISTI" ON THE RIGHT SIDE OF THE WORD "FIELD".

SER. NO. 86-151,142, FILED 12-23-2013.

ANNE MADDEN, EXAMINING ATTORNEY



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

United States of America

United States Patent and Trademark Office

WHATABURGER

Reg. No. 4,845,240

Registered Nov. 3, 2015

Int. Cl.: 43

SERVICE MARK

PRINCIPAL REGISTER

TRES AGUILAS ENTERPRISES LLC (TEXAS LIMITED LIABILITY COMPANY)
300 CONCORD PLAZA DRIVE
SAN ANTONIO, TX 78216

FOR: FOOD PREPARATION SERVICES; RESTAURANT SERVICES FEATURING BREADED AND FRIED CHICKEN NUGGETS, STRIPS, TENDERS, BITES, AND MORSELS; TAKE-OUT RESTAURANT SERVICES; RESTAURANT SERVICES FEATURING ICE CREAM, SHAKE AND MALT BASED BEVERAGES; DRIVE-IN RESTAURANT SERVICES; RESTAURANT SERVICES FEATURING PROVISION OF COFFEE; GROUP MEAL SERVICES, NAMELY, PROVIDING TAKEOUT RESTAURANT SERVICES TO GROUPS TRAVELLING BY AUTOMOBILE, TRUCK OR BUS, SCHOOL MEAL PREPARATION SERVICES, AND PREPARATION OF MEALS FOR CONSUMPTION BY GROUPS OF TRAVELERS ON OR OFF THE PREMISES; CARRYOUT RESTAURANT SERVICES; CAFE SERVICES; RESTAURANT SERVICES FEATURING BREAKFAST FOODS AND BEVERAGES; FAST-FOOD RESTAURANT SERVICES; PREPARATION OF BEVERAGES FOR CONSUMPTION ON OR OFF THE PREMISES; RESTAURANT SERVICES FEATURING FAJITAS, TAQUITOS AND TACOS; FOOD RELATED SERVICES, NAMELY, FOOD PREPARATION SERVICES, RESTAURANT SERVICES, CAFE SERVICES, DELICATESSEN SERVICES; NON-STOP RESTAURANT SERVICES; DELICATESSEN SERVICES; RESTAURANT SERVICES FEATURING HAMBURGERS, CHEESEBURGERS, CHICKEN SANDWICHES, FISH SANDWICHES AND OTHER MEAT SANDWICHES; FAST CASUAL RESTAURANT SERVICES; DRIVE-THROUGH RESTAURANT SERVICES; PREPARATION OF MEALS FOR CONSUMPTION ON OR OFF THE PREMISES; PROVISION OF FOOD AND DRINKS IN RESTAURANTS; RESTAURANT SERVICES FEATURING SANDWICHES; BEVERAGE PREPARATION SERVICES; DINE-IN RESTAURANT SERVICES; QUICK SERVICE RESTAURANT SERVICES; RESTAURANT SERVICES, NAMELY, PROVIDING OF FOOD AND BEVERAGES FOR CONSUMPTION ON AND OFF THE PREMISES, IN CLASS 43 (U.S. CLS. 100 AND 101).



FIRST USE 8-8-1950; IN COMMERCE 8-19-1953.

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

Michelle K. Lee

Director of the United States
Patent and Trademark Office

OWNER OF U.S. REG. NOS. 652,137, 2,757,109 AND OTHERS.

SER. NO. 86-574,514, FILED 3-24-2015.

Reg. No. 4,845,240 LINDA ESTRADA, EXAMINING ATTORNEY

Page: 2 / RN # 4,845,240

United States of America

United States Patent and Trademark Office

WHATABURGER

Reg. No. 4,921,566

Registered Mar. 22, 2016

Int. Cl.: 29

TRADEMARK

PRINCIPAL REGISTER

TRES AGUILAS ENTERPRISES LLC (TEXAS LIMITED LIABILITY COMPANY)
300 CONCORD PLAZA DRIVE
SAN ANTONIO, TX 78216

FOR: HAMBURGER; SAVORY POTATO BASED SNACK FOODS; SALADS, NAMELY, GARDEN SALADS, VEGETABLE SALADS, FRUIT SALADS, MEAT SALADS, CHICKEN SALADS, PREPARED PROTEIN SALADS, GARDEN SALADS WITH GRILLED OR FRIED MEAT OR POULTRY, VEGETABLE SALADS, WITH GRILLED OR FRIED MEAT OR POULTRY; DRIED FRUITS; POTATO FRIES; SALADS, EXCEPT MACARONI, RICE AND PASTA SALADS; COMBINATION MEALS CONSISTING PRIMARILY OF PROCESSED CHICKEN BREAST AND CHICKEN BREAST CHUNKS SERVED AS BREADED AND FRIED CHICKEN NUGGETS, STRIPS, TENDERS, BITES, OR MORSELS, DIPPING SAUCES, FRIES, AND A DRINK FOR CONSUMPTION ON OR OFF THE PREMISES; PREPARED MEALS AND ENTREES CONSISTING PRIMARILY OF EGGS; PROCESSED AVOCADOS; CUT APPLES; MEATS AND PROCESSED FOODS, NAMELY, PROCESSED MEATS, PROCESSED POULTRY, PROCESSED FISH, PROCESSED EGGS, PROCESSED VEGETABLES, PROCESSED FRUITS, GRILLED MEATS, GRILLED POULTRY, GRILLED VEGETABLES, FRIED MEATS, FRIED POULTRY, FRIED FISH AND FRIED VEGETABLES; CUT FRUIT; PROCESSED JALAPENOS; POULTRY; EGGS; PICKLES; PROCESSED CARROTS; FISH, NOT LIVE; POTATO CHIPS; CHICKEN STRIPS; MILK; POTATO-BASED SNACK FOODS; MARGARINE; FRUIT-BASED SNACK FOOD; PROCESSED GREEN CHILI PEPPERS; FISH FILLETS; BACON; BUTTER SUBSTITUTES; POTATO SNACK PRODUCTS IN THE FORM OF PIECES CAPABLE OF BEING FRIED; PREPARED MEALS AND ENTREES CONSISTING PRIMARILY OF MEAT, FISH, POULTRY, VEGETABLES, FRUIT AND EGGS FOR CONSUMPTION ON OR OFF THE PREMISES; SNACK FOOD PRODUCTS MADE WHOLLY OR PRINCIPALLY OF POTATOES; PROCESSED ONIONS; PROCESSED TOMATOES; BEEF PATTIES; POTATO STICKS; COFFEE CREAMER; FRUIT SLICES; OILS AND FATS FOR FOOD; PROCESSED POTATOES; ONION RINGS; PICKLED JALAPENOS; PROCESSED POBLANO PEPPERS; BREADED FISH FILLETS; DRIED CRANBERRIES; CHICKEN NUGGETS; POTATO SNACK PRODUCTS IN THE FORM OF FRIED PIECES; CHOCOLATE MILK; CHEESE; PROCESSED LETTUCE; FRENCH FRIES; CHORIZO; COMBINATION MEAL CONSISTING PRIMARILY OF A MEAT, POULTRY, FISH, VEGETABLE OR FRUIT BASED ENTREE FOR CONSUMPTION ON OR OFF THE PREMISES; CHICKEN BREAST CHUNKS SERVED BREADED AND FRIED AS CHICKEN NUGGETS, STRIPS, TENDERS, BITES, AND MORSELS; MEAT; BEVERAGES CONSISTING PRINCIPALLY OF MILK; DAIRY BASED SPREADS; SAUSAGE; HASH BROWN POTATOES; DAIRY PRODUCTS EXCEPT ICE CREAM, ICE MILK AND FROZEN YOGURT; GARDEN SALADS; POTATOES BEING



Michelle K. Lee

Director of the United States
Patent and Trademark Office

Reg. No. 4,921,566 PROCESSED; BEEF; BUTTER; JELLIES; PROCESSED CHILIES; DAIRY BASED BEVERAGES; SALAD OIL; CUT FRUIT SERVED IN A BAG; FRENCH FRIED POTATOES; CHICKEN; PREPARED MEALS AND ENTREES CONSISTING PRIMARILY OF EGG WITH ONE OR MORE OF MEAT, FISH, POULTRY, VEGETABLE, CHEESE AND SAUCE; DIPS; FRIED POTATOES; PROCESSED APPLES; PROCESSED MEATS, NAMELY, BREADED AND FRIED CHICKEN NUGGETS, STRIPS, TENDERS, BITES, AND MORSELS; POTATO CRISPS, IN CLASS 29 (U.S. CL. 46).

FIRST USE 8-8-1950; IN COMMERCE 8-19-1953.

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

OWNER OF U.S. REG. NOS. 652,137, 2,335,590, AND 2,757,109.

SER. NO. 86-574,431, FILED 3-24-2015.

LINDA ESTRADA, EXAMINING ATTORNEY

United States of America

United States Patent and Trademark Office

WHATABURGER

Reg. No. 4,921,567

TRES AGUILAS ENTERPRISES LLC (TEXAS LIMITED LIABILITY COMPANY)
300 CONCORD PLAZA DRIVE

Registered Mar. 22, 2016

SAN ANTONIO, TX 78216

Int. Cl.: 30

TRADEMARK

PRINCIPAL REGISTER



Michelle K. Lee

Director of the United States
Patent and Trademark Office

FOR: HAMBURGER SANDWICHES; BAKERY DESSERTS; TACOS; CHEESEBURGER SANDWICHES; CHEESE SANDWICHES; BREAKFAST SANDWICHES CONSISTING OF EGGS, BACON, SAUSAGE, CHEESE, AND/OR CONDIMENTS; HONEY BARBECUE SAUCE; FRIED FRUIT PIES AND PASTRIES; GRILLED FOOD PRODUCTS FOR CONSUMPTION ON OR OFF THE PREMISES, NAMELY, GRILLED MEAT SANDWICHES, GRILLED CHICKEN SANDWICHES, GRILLED CHEESE SANDWICHES, GRILLED VEGETABLE SANDWICHES, GRILLED MEAT TAQUITOS, GRILLED CHICKEN TAQUITOS, GRILLED VEGETABLE TAQUITOS, GRILLED MEAT FAJITAS, GRILLED CHICKEN FAJITAS, GRILLED VEGETABLE FAJITAS, GRILLED MEAT TACOS, GRILLED CHICKEN TACOS, GRILLED VEGETABLE TACOS, GRILLED MEAT WRAPS, GRILLED CHICKEN WRAPS, AND GRILLED VEGETABLE WRAPS; PANCAKE MIX; CREAMY PEPPER SAUCE; GRILLED CHICKEN SANDWICHES AND CHICKEN FAJITAS; GRILLED VEGETABLE SANDWICHES; HONEY MUSTARD SALAD DRESSING; BISCUITS; DESSERTS, NAMELY, PASTRIES WITH FRUIT; HONEY BUTTER SAUCE; SALAD DRESSINGS; SUGAR; PREPARED MEAL CONSISTING OF A HAMBURGER OR CHEESEBURGER SANDWICH, FRENCH FRIES AND A BEVERAGE FOR CONSUMPTION ON OR OFF THE PREMISES; JALAPENO RANCH SAUCE; BUTTER BISCUITS; PIES WITH APPLE, PINEAPPLE, BANANA, LEMON, STRAWBERRY OR CINNAMON; COOKIES; MUSTARD; PANCAKE SYRUP; JALAPENO CHEDDAR BISCUITS; SANDWICHES; BREAKFAST BURRITOS; ICED TEA; FRUIT CHEW CANDY; CONDIMENTS, NAMELY, BARBEQUE SAUCE, DIPPING SAUCES, KETCHUP, MAYONNAISE, MUSTARD, PANCAKE SYRUP, SALAD DRESSINGS, VINAIGRETTES, HONEY MUSTARD SALAD DRESSING, STEAK SAUCE, TARTAR SAUCE, HONEY BARBEQUE SAUCE, CREAMY PEPPER SAUCE, JALAPENO RANCH SAUCE, PEPPERCORN RANCH SAUCE, HONEY MUSTARD, PEPPER, SALT, AND SUGAR SUBSTITUTES; STEAK SAUCE; PREPARED FISH SANDWICHES FOR CONSUMPTION ON OR OFF THE PREMISES; SANDWICHES MADE OF MEAT, POULTRY, FISH, CHEESE, VEGETABLES AND/OR SAUCE; ICE CREAM; TAQUITOS; BREAD AND PASTRY; SUGAR SUBSTITUTES; CROUTONS; COFFEE; CHICKEN SANDWICHES; BREAKFAST COMBINATION SANDWICHES; FAJITAS; CINNAMON ROLLS; BAKERY PRODUCTS; TORTILLAS; PANCAKES; FRUIT PIES; FISH SANDWICHES; DIPPING SAUCES; PEPPER; TOAST; SANDWICHES FOR CONSUMPTION ON OR OFF THE PREMISES; TEA; BACON SANDWICHES; BUNS; PASTRIES; GRAVY; HONEY; SAUSAGE SANDWICHES; BREAKFAST SANDWICHES, IN CLASS 30 (U.S. CL. 46).

Reg. No. 4,921,567 FIRST USE 8-8-1950; IN COMMERCE 8-19-1953.

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

OWNER OF U.S. REG. NOS. 652,137, 2,335,590, AND 2,757,109.

SER. NO. 86-574,450, FILED 3-24-2015.

LINDA ESTRADA, EXAMINING ATTORNEY

United States of America

United States Patent and Trademark Office

WHATABURGER

Reg. No. 4,921,568

TRES AGUILAS ENTERPRISES LLC (TEXAS LIMITED LIABILITY COMPANY)
300 CONCORD PLAZA DRIVE

Registered Mar. 22, 2016

SAN ANTONIO, TX 78216

Int. Cl.: 32

FOR: BEVERAGES, NAMELY, NON-ALCOHOLIC BEVERAGES IN THE NATURE OF FRUIT BEVERAGES AND CARBONATED BEVERAGES; SOFT DRINKS FOR CONSUMPTION ON OR OFF THE PREMISES; NON-ALCOHOLIC DRINKS SOLD FOR CONSUMPTION ON OR OFF THE PREMISES, NAMELY, FRUIT JUICES, FRUIT FLAVORED DRINKS, SPORTS DRINKS, FRUIT PUNCH, DRINKING WATER, LEMONADE, NON-FROZEN NON-ALCOHOLIC CARBONATED BEVERAGES; CARBONATED AND NON-CARBONATED SOFT DRINKS AND FRUIT JUICES; SOFT DRINKS, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

TRADEMARK

PRINCIPAL REGISTER

FIRST USE 8-8-1950; IN COMMERCE 8-19-1953.

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

OWNER OF U.S. REG. NOS. 652,137, 2,335,590, AND 2,757,109.

SER. NO. 86-574,467, FILED 3-24-2015.

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Director of the United States
Patent and Trademark Office