

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

Case No. 2:10-cv-00572-TJW

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GEOTAG, INC. :

vs. :

AFC ENTERPRISES, INC. D/B/A :

POPEYE’S CHICKEN AND BISCUITS :

D/B/A POPEYE’S, APPLEBEE’S :

INTERNATIONAL, INC., APPBLEBEE’S :

IP, LLC, BOB EVANS FARMS, INC. :

D/B/A BOB EVANS, BOB EVANS :

RESTAURANTS OF MICHIGAN, LLC, :

BRINKER INTERNATIONAL, INC. :

D/B/A CHILI’S D/B/A ROMANO’S :

MACARONI GRILL D/B/A :

MAGGIANO’S LITTLE ITALY, :

BURGER KING CORP., CALIFORNIA :

PIZZA KITCHEN, INC., CEC :

ENTERTAINMENT CONCEPTS, L.P., :

CEC ENTERTAINMENT, INC. D/B/A :

CHUCK E. CHEESE’S, CICI :

ENTERPRISES, LP D/B/A CICI’S PIZZA, :

CINNABON, INC., CRACKER BARREL :

OLD COUNTRY STORE, INC. D/B/A :

CRACKER BARREL, DARDEN :

CONCEPTS, INC., DARDEN :

RESTAURNTS, INC. D/B/A RED :

LOBSTER D/B/A LONGHORN :

STEAKHOUSE D/B/A OLIVE GARDEN :

D/B/A THE CAPITAL GRILLE D/B/A :

BAHAMA BREEZE D/B/A SEASONS :

D/B/A :

LONGHORNSTEAKHOUSE.COM, DD :

IP HOLDER, LLC, DELI :

MANAGEMENT, INC. D/B/A JASON’S :

DELI, DINEEQUITY, INC. D/B/A IHOP :

D/B/A INTERNATIONAL HOUSE OF :

PANCAKES, DOCTOR’S ASSOCIATES :

INC. D/B/A SUBWAY, DOMINO’S :

PIZZA, INC., DR. PEPPER SNAPPLE :

GROUP, INC., DUNKIN DONUTS, INC., :

DUNKIN’ BRANDS, INC. D/B/A DUNKIN :

**DONUTS, FRANCHISE WORLD** :  
**HEADQUARTERS, LLC, GMRI, INC.,** :  
**GODFATHER’S PIZZA, INC., GREAT** :  
**HARVETS BREAD CO., IHOP CORP.,** :  
**IHOP IP, LLC, ILITCH HOLDINGS,** :  
**INC., JACK IN THE BOX, INC.,** :  
**LANDRY’S INC. D/B/A CHART HOUSE** :  
**D/B/A SALT GRASS D/B/A CLAIM** :  
**JUMPER D/B/A OCEANAIRE D/B/A** :  
**SALTGRASS, LITTLE CEASAR** :  
**ENTERPRISES, INC., MAMA JIM’S** :  
**PIZZA, INC. D/B/A MR. JIM’S PIZZA,** :  
**MCDONALD’S CORP., MOE’S** :  
**FRANCHISOR, LLC, MOE’S** :  
**SOUTHWEST GRILL, LLC, MOE’S,** :  
**INC., MR. GATTI’S, L.P., MSWG, LLC,** :  
**PANERA BREAD COMPANY, PANERA,** :  
**LLC, PAPA JOHNS INTERNATIONAL,** :  
**INC., PAPA JOHNS USA, INC., PIZZA** :  
**INN, INC., PIZZERIA UNO CORP.,** :  
**SALTGRASS, INC., STARBUCKS** :  
**CORP., THE OCEANAIRE, INC.** :  


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**DEFENDANT MAMA JIM’S PIZZA, INC. D/B/A MR. JIM’S PIZZA’S**  
**ANSWER TO COMPLAINT FOR**  
**PATENT INFRINGEMENT AND AFFIRMATIVE DEFENSES**

Defendant Mama Jim’s Pizza, Inc. d/b/a Mr. Jim’s Pizza (“Mr. Jim’s”), by its attorneys, Whaley, Letteer & Mock, P.C. answering Plaintiff Geotag, Inc.’s (“Geotag”) Complaint for Patent Infringement (the “Complaint”) says:

**ANSWER TO THE PARTIES**

1. Mr. Jim’s lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1 of the Complaint and therefore denies same.
2. Mr. Jim’s lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 2 of the Complaint and therefore denies same.

3. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3 of the Complaint and therefore denies same.

4. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4 of the Complaint and therefore denies same.

5. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 5 of the Complaint and therefore denies same.

6. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6 of the Complaint and therefore denies same.

7. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7 of the Complaint and therefore denies same.

8. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8 of the Complaint and therefore denies same.

9. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 9 of the Complaint and therefore denies same.

10. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 10 of the Complaint and therefore denies same.

11. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 11 of the Complaint and therefore denies same.

12. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 12 of the Complaint and therefore denies same.

13. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 13 of the Complaint and therefore denies same.

14. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 14 of the Complaint and therefore denies same.

15. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 15 of the Complaint and therefore denies same.

16. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 16 of the Complaint and therefore denies same.

17. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 17 of the Complaint and therefore denies same.

18. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 18 of the Complaint and therefore denies same.

19. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 19 of the Complaint and therefore denies same.

20. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 20 of the Complaint and therefore denies same.

21. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 21 of the Complaint and therefore denies same.

22. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 22 of the Complaint and therefore denies same.

23. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 23 of the Complaint and therefore denies same.

24. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 24 of the Complaint and therefore denies same.

25. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 25 of the Complaint and therefore denies same.

26. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 26 of the Complaint and therefore denies same.

27. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 27 of the Complaint and therefore denies same.

28. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 28 of the Complaint and therefore denies same.

29. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 29 of the Complaint and therefore denies same.

30. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 30 of the Complaint and therefore denies same.

31. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 31 of the Complaint and therefore denies same.

32. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 32 of the Complaint and therefore denies same.

33. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 33 of the Complaint and therefore denies same.

34. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 34 of the Complaint and therefore denies same.

35. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 35 of the Complaint and therefore denies same.

36. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 36 of the Complaint and therefore denies same.

37. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 37 of the Complaint and therefore denies same.

38. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 38 of the Complaint and therefore denies same.

39. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 39 of the Complaint and therefore denies same.

40. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 40 of the Complaint and therefore denies same.

41. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 41 of the Complaint and therefore denies same.

42. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 42 of the Complaint and therefore denies same.

43. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 43 of the Complaint and therefore denies same.

44. Mr. Jim's admits that it has a place of business in Farmers Branch, Texas.

45. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 45 of the Complaint and therefore denies same.

46. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 46 of the Complaint and therefore denies same.

47. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 47 of the Complaint and therefore denies same.

48. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 48 of the Complaint and therefore denies same.

49. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 49 of the Complaint and therefore denies same.

50. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 50 of the Complaint and therefore denies same.

**ANSWER TO JURISDICTION AND VENUE**

51. Mr. Jim's admits that Geotag's Complaint purports to arise under the patent laws of the United States, but denies that it has infringed the patent asserted in the Complaint and further denies all other allegations of paragraph 51 of the Complaint.

52. Mr. Jim's denies the allegations contained in paragraph 52 to the extent such allegations relate to Mr. Jim's. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 52 of the Complaint as they relate to other Defendants.

53. Mr. Jim's denies the allegations contained in paragraph 53 to the extent such allegations relate to Mr. Jim's. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 53 of the Complaint as they relate to other Defendants.

**ANSWER TO COUNT ONE**

**(INFRINGEMENT OF US PATENT NUMBER 5930474)**

54. Mr. Jim's admits the allegation in paragraph 54 of the Complaint.

55. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 55 of the Complaint and therefore denies same.

56. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 56 of the Complaint and therefore denies same.

57. Mr. Jim's denies the allegations in paragraph 57 of the Complaint as same relate to Mr. Jim's however lacks knowledge or information sufficient to form a belief as to the truth of the allegations as to the other Defendants.

58. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 58 of the Complaint and therefore denies same.

59. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 59 of the Complaint and therefore denies same.

60. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 60 of the Complaint and therefore denies same.

61. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 61 of the Complaint and therefore denies same.

62. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 62 of the Complaint and therefore denies same.

63. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 63 of the Complaint and therefore denies same.

64. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 64 of the Complaint and therefore denies same.

65. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 65 of the Complaint and therefore denies same.

66. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 66 of the Complaint and therefore denies same.



67. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 67 of the Complaint and therefore denies same.

68. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 68 of the Complaint and therefore denies same.

69. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 69 of the Complaint and therefore denies same.

70. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 70 of the Complaint and therefore denies same.

71. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 71 of the Complaint and therefore denies same.

72. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 72 of the Complaint and therefore denies same.

73. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 73 of the Complaint and therefore denies same.

74. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 74 of the Complaint and therefore denies same.

75. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 75 of the Complaint and therefore denies same.

76. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 76 of the Complaint and therefore denies same.

77. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 77 of the Complaint and therefore denies same.

78. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 78 of the Complaint and therefore denies same.

79. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 79 of the Complaint and therefore denies same.

80. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 80 of the Complaint and therefore denies same.

81. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 81 of the Complaint and therefore denies same.

82. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 82 of the Complaint and therefore denies same.

83. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 83 of the Complaint and therefore denies same.

84. Mr. Jim's denies the allegations contained in paragraph 84.

85. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 85 of the Complaint and therefore denies same.

86. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 86 of the Complaint and therefore denies same.

87. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 87 of the Complaint and therefore denies same.

88. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 88 of the Complaint and therefore denies same.

89. Mr. Jim's lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 89 of the Complaint and therefore denies same.

90. Mr. Jim's denies the allegations in paragraph 90 as it relates to any conduct engaged in by Mr. Jim's.

**ANSWER TO PRAYER FOR RELIEF**

Mr. Jim's denies that Geotag is entitled to the requested relief identified in Items 1 through 6 in its Prayer for Relief.

**ANSWER TO DEMAND FOR JURY TRIAL**

The Demand for Jury Trial lacks any allegation of fact and no answer is required.

**AFFIRMATIVE DEFENSES**

Without conceding that any of the following must be pleaded as an affirmative defense, or that any of the following is not already in issue by virtue of the foregoing denials, and without prejudice to Mr. Jim's right to plead additional defenses as discovery into the facts of the matter may warrant, Mr. Jim's hereby asserts the following defenses without undertaking or otherwise shifting any applicable burdens of proof.

**FIRST AFFIRMATIVE DEFENSE**

91. Geotag's Complaint fails to state a claim upon which relief can be granted against Mr. Jim's.

**SECOND AFFIRMATIVE DEFENSE**

92. Mr. Jim's does not infringe, has not infringed, and does not and has not induced infringement or contributed to infringement of the "474 Patent".

**THIRD AFFIRMATIVE DEFENSE**

93. Geotag's claims are barred by the equitable doctrines of waiver, estoppel and laches.

**FOURTH AFFIRMATIVE DEFENSE**

94. The relief sought by Geotag is barred or limited by the operation of 35 U.S.C. §286.

**PRAYER FOR RELIEF**

THEREFORE, Mr. Jim's prays for the following relief:

- (a) Any and all relief requested by Geotag, as set forth in the Prayer for Relief of the Complaint, be denied and that the Complaint be dismissed with prejudice;
- (b) Declare that Mr. Jim's has not and does not infringe on the "474 Patent"; and
- (c) Grant Mr. Jim's such other relief as this Court deems just and proper.

Respectfully Submitted,

By:     /s/ Robert D. Whaley      
Robert D. Whaley

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**CERTIFICATION OF SERVICE**

I hereby certify that a copy of the foregoing document was filed electronically in compliance with Local Rule CV-5(a) on this 10<sup>th</sup> day of March, 2011. As such, this pleading was served on all counsel who are deemed to have consented to electronic service.

By: /s/ Robert D. Whaley  
Robert D. Whaley