

Trademark Office Finds BioMcDiesel Would Confuse McDonald's Customers

While customers can't order a BigMac, fries, and five gallons of diesel fuel, the U.S. Patent and Trademark Office found BioMcDiesel would create a likelihood of confusion with the famous McDonald's family of marks and denied registration of the proposed trademark.

Joel Joseph filed an intent-to-use application to register the mark BioMcDiesel for biodiesel fuel. McDonald's Corporation opposed the registration on the grounds of likelihood of confusion with the company's "Mc" family of marks. The Trademark Trial and Appeal Board (TTAB) agreed with McDonald's, finding a "likelihood of confusion" between the proposed mark and McDonald's marks.

The TTAB found McDonald's has extensively used a "Mc" family of marks with various generic or descriptive terms to identify not only its food products and restaurant services but also a variety of non-food related services.

The TTAB observed that some entities are combining food services with gasoline and diesel fueling stations, including McDonald's, which "has been sharing locations with gas service stations since at least as early 1993. Biodiesel fuel is sold at some of the restaurant and gas station combinations." Moreover, McDonald's supplies "yellow grease," that is, used fryer grease, for recycling, some of which is converted to biofuel, the TTAB said.

"Although we cannot conclude from this evidence that biodiesel fuel and restaurant services in general are related, it is sufficient to show that there is a relationship between gas stations and food service/restaurants, and particularly between Opposer's [McDonald's] restaurants, the food items served in those restaurants, and its yellow grease, and fuel, such that relevant consumers, when confronted with the use of Applicant's BioMcDiesel mark for biodiesel fuel, would be likely to believe there is an association as to source between that biodiesel fuel and Opposer's restaurant services and related food products," the TTAB wrote in its opinion.

As a result, the TTAB rejected the application, finding that the mark BioMcDiesel and McDonald's "Mc" family of marks "are sufficiently similar that if used on related goods, consumers would think BioMcDiesel is part of Opposer's 'Mc' family of marks."

McDonald's Corporation v. Joel D. Joseph, TTAB Opposition No. 91194117.