

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

KRISPY KRUNCHY FOODS, LLC
d/b/a KRISPY KRUNCHY
CHICKEN,

Plaintiff,

v.

MAAZ ENTERPRISES LLC
AND AFSANA GAS INC,

Defendants.

Civil Action No. _____

JURY DEMAND

COMPLAINT

Plaintiff Krispy Krunchy Foods, LLC d/b/a Krispy Krunchy Chicken (“Krispy Krunchy”), located at 1826 Sterkx Road, Alexandria, Louisiana 71301, by and through its undersigned attorneys, hereby alleges by way of this Complaint against Defendants Maaz Enterprises LLC and Afsana Gas Inc, both operating at 2710 Bouldercrest Road, Atlanta, GA 30316 (“Defendants”), the following:

NATURE OF THE ACTION

1. This is a civil action for trademark counterfeiting, infringement, dilution, and false designation of origin under the Lanham Act, 15 U.S.C. §§ 1114 and 1125, and for deceptive trade practices, trademark infringement and unfair competition under the laws of Georgia.

THE PARTIES

2. Plaintiff Krispy Krunchy is a Louisiana limited liability company having its principal place of business at 1826 Sterkx Road, Alexandria, Louisiana 71301.

3. On information and belief, Defendant Maaz Enterprises LLC is a Georgia limited liability company having its principal place of business at 2710 Bouldercrest Road, Atlanta, GA 30316.

4. On information and belief, Defendant Afsana Gas Inc is a Georgia corporation having its principal place of business at 2710 Bouldercrest Road, Atlanta, GA 30316.

JURISDICTION AND VENUE

5. This Court has subject-matter jurisdiction over Krispy Krunchy's federal claims pursuant to 28 U.S.C. §§ 1331, 1338, and 15 U.S.C. § 1121.

6. This Court has supplemental jurisdiction over Krispy Krunchy's claims arising under Georgia state law pursuant to 28 U.S.C. § 1367(a) because those claims are so related to Krispy Krunchy's federal claims that they form part of the same case or controversy and derive from a common nucleus of operative fact.

7. This Court has personal jurisdiction over Defendants at least because Maaz Enterprises LLC and Afsana Gas Inc are entities created and existing under

Georgia law, have their principal place of business in this District, and the acts complained of herein occurred in this District.

8. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

FACTUAL BACKGROUND

Krispy Krunchy's Business and Longstanding Use of the Distinctive KRISPY KRUNCHY Marks

9. Krispy Krunchy operates one of the fastest-growing, convenience-store-based, quick-service fried chicken concepts in the nation.

10. Krispy Krunchy was founded in Louisiana in 1989. Krispy Krunchy's principals boast a combined seventy-plus years of experience in the convenience store / food service industry.

11. Krispy Krunchy provides food products to convenience stores ("C-Stores"), quick-service restaurants ("QSRs"), and grocery stores, among other types of retail channels. Krispy Krunchy's C-Stores, QSRs, and supermarkets are referred to as "Operators."

12. The heart of Krispy Krunchy is the proprietary chicken it provides for its Operators under the brand "KRISPY KRUNCHY." Krispy Krunchy also provides a full line of related food products, including, fish, shrimp, mashed potatoes, french fries, beans, biscuits, biscuit sandwiches, breakfast sandwiches,

burritos, empanadas, gravy, dipping sauces, macaroni and cheese, rice and jambalaya.

13. In 1993, Krispy Krunchy adopted a Barn and Sun logo and has used variations of this logo (as shown below) since that time:



14. Krispy Krunchy has been using the mark KRISPY KRUNCHY, both alone and in conjunction with the Barn and Sun logo, in connection with its goods and services continuously since at least as early as 1993.

15. Krispy Krunchy offers a program through which it allows Operators to market and sell Krispy Krunchy food products (the “Krispy Krunchy Program”).

16. Under the Krispy Krunchy Program, Operators agree to (among other things):

- Buy and use Krispy Krunchy proprietary products;
- Maintain the Krispy Krunchy Program as specified during on-site training;
- Buy all related food service products from Krispy Krunchy’s designated supplier; and

- Accept new products introduced by Krispy Krunchy from time to time.

17. Under the Program, Krispy Krunchy (among other things) agrees to:

- Provide its Operators approximately one week's training at the Operator's location at Krispy Krunchy's expense;
- Schedule retraining at the Operator's request and according to trainer availability;
- Provide assistance with operational problems, such as gross profit, volume, labor, etc.; and
- Grant geographic protection from other Operators wanting to participate in the Krispy Krunchy Program in a nearby location.

18. Krispy Krunchy has distinguished itself from its competitors by offering the only chicken program of its kind with proprietary chicken recipes and preparation. Indeed, Krispy Krunchy holds out its KRISPY KRUNCHY chicken and other branded products to the industry and its customers as "proprietary."

19. In particular, Krispy Krunchy's chicken is marinated before it is delivered to Krispy Krunchy's Operators. Krispy Krunchy's proprietary recipes and preparation results in a distinctive Cajun flavor that not only causes its chicken to taste better, but also results in a longer shelf life before cooking.

20. Krispy Krunchy's signature chicken recipe was developed in its founder's own small C-Store chain.

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