

ESTTA Tracking number: **ESTTA1183376**

Filing date: **01/07/2022**

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

Proceeding	90083905
Applicant	Layla Dakhil Dakhilallah al-Hazimi
Applied for mark	WISTER GOURMET BURGER
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Submission	Appeal brief
Attachments	2022-01-06 WISTER GOURMET BURGER Brief on Appeal.pdf(473288 bytes ) 2022-01-06 Exhibit A.pdf(5502952 bytes ) 2022-01-06 Exhibit B - WISTER INSURANCE.pdf(121627 bytes )
Appealed class	Class 043. First Use: 0 First Use In Commerce: 0 All goods and services in the class are appealed, namely: Restaurant services; fast food restaurant services; Providing temporary housingaccommodations; providing of food and drink
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

Serial No.: 90/083,905  
Mark: WISTER GOURMET BURGER (Stylized)  
Applicant: Layla Dakhil Dakhilallah al-Hazimi  
Examining Attorney: Rebecca A. Smith  
Law Office 110

**EX PARTE APPEAL**

**APPLICANT'S BRIEF**

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## **I. SUMMARY OF THE ARGUMENT**

This case concerns the Examining Attorney's refusal to register Applicant's mark consisting of the word "WISTER" in capital red letters over the words "GOURMET BURGER" in capital red letters ("Applicant's Mark") for use in connection with "Restaurant services; fast food restaurant services; Providing temporary housing accommodations; providing of food and drink" in International Class 43. The Examining Attorney's refusal is based on the perceived surname significance of the Applicant's Mark.

Applicant appeals the refusal. Consumers are not likely to perceive Applicant's Mark primarily merely as a surname. "Wister Gourmet Burger" is not a surname, and "Wister" is a rare surname. No one connected with the Applicant has the surname "Wister". "Wister" has recognized meanings and significance other than as a surname. Applicant's Mark does not have the look and feel of a surname. And notably, a similar mark – WISTER INSURANCE – recently registered on the Principal Register. It would therefore be inconsistent with the USPTO's trademark examination practices and procedures to refuse registration of Applicant's Mark.

## **II. BACKGROUND AND PROSECUTION HISTORY**

Applicant seeks registration on the Principal Register of Applicant's Mark for "Restaurant services; fast food restaurant services; Providing temporary housing accommodations; providing of food and drink" in International Class 43. The trademark application was filed on July 30, 2020 and received U.S. Trademark Application Serial No. 90/083,905.

The Examining Attorney initially refused registration of Applicant's Mark in an Office Action dated November 20, 2020, contending that Applicant's Mark is primarily merely a surname.

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