

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

CARBONE’S FINE FOODS AND WINES LLC,

Plaintiff,

v.

THE MAJOR FOOD GROUP LLC,
MAJOR INTELLECTUAL LLC,
CARBONE RESTAURANT LLC, and
CARBONE CAFÉ LLC

Defendants et. al.

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JURY DEMAND

PLAINTIFF’S ORIGINAL COMPLAINT

Carbone’s Fine Food and Wine, LLC files this Original Complaint against Carbone LLC, Major Food Group, LLC, and Major Intellectual LLC (“Defendant” or “Carbone MFG” or collectively, “Defendants”) and would respectfully show the Court as follows:

PARTIES

1. Carbone’s Fine Food & Wine, LLC is a Texas corporation with its principal place of business located at 4208 Oak Lawn Ave, Dallas Texas, 75219.
2. Upon information and belief, Carbone LLC is a Texas corporation having its principal place of business located at 1617 Hi Line Drive, Dallas, Texas 75207, and Plaintiff may effectuate service of process upon Defendant at that address. On information and belief, Carbone LLC is the corporation believed to be responsible for the operation of the Carbone restaurant located on Oak Lawn Avenue down the street from the original Carbone’s Dallas.

3. Upon information and belief, Defendant Major Food Group LLC was registered under the laws of Delaware on or around June 3, 2011, with its principal place of business located at 99 E 52nd St, New York City, New York, 10022, United States.

4. Upon information and belief, Defendant Major Intellectual LLC is a limited liability company organized under the laws of Delaware on or around June 3, 2011, with its principal place of business located at 110 Lafayette St., Floor 3, New York, New York, 10013.

JURISDICTION AND VENUE

3. The United States District Court for the Northern District of Texas has jurisdiction over this action pursuant to the provisions of 28 U.S.C. § 1331 in that this matter is a civil action arising under the Constitution, laws, or treaties of the United States. Specifically, this action involves federal trademark rights, federal Lanham Act violations, and other federal causes of action. Subject matter jurisdiction over those of Plaintiff's claims that arise under state law is based upon the principles of supplemental jurisdiction set forth in 28 U.S.C. § 1367, and the provisions of 28 U.S.C. § 1338(b) as an action asserting a claim for Texas trademark infringement, dilution and unfair competition joined with a substantial and related claim under the federal trademark laws.

4. Plaintiff is informed and believes and thereupon alleges that venue in this action is proper in this district pursuant to 28 U.S.C. § 1391.

FACTUAL BACKGROUND

CONFUSION ON DISPLAY IN THE MARKET

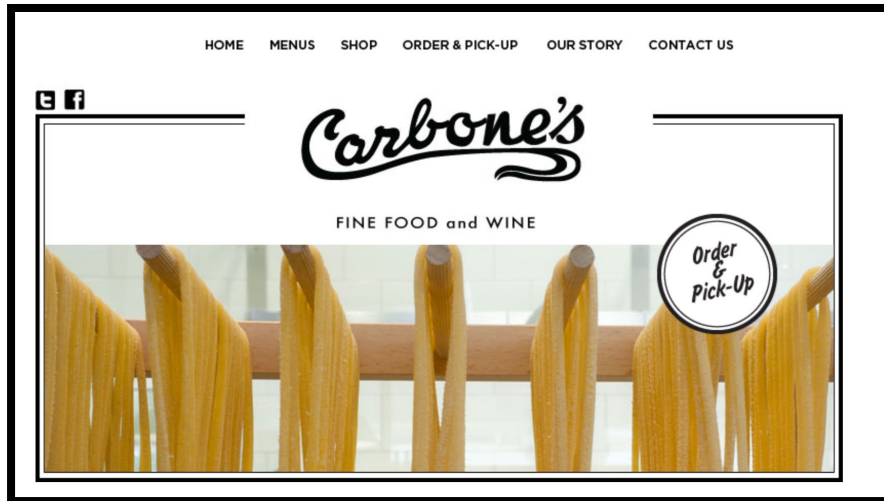
5. Julian Barsotti is the head chef and founder of Plaintiff Carbone's Fine Foods and Wine ("Carbone's Dallas" or "Plaintiff").

6. On March 2, 2022, Carbone's Dallas investor, Karen Hixon, walked into a local Central Market store and was shocked to find a large display with Carbone's common law trademark (the "Mark" or CARBONE'S mark) prominently featured at both the top and side of the display. Seeing the CARBONE'S mark and logos, and unaware that Carbone's Dallas had launched a new pasta sauce line for sale at Central Market grocery stores, she took a photograph of the display and forwarded it to Carbone's Owner-Chef Julian Barsotti. Mr. Barsotti had to correct Karen Hixon's confusion. Mr. Barsotti confirmed the marks and logos belonged to Carbone's Dallas, but that retail pasta sauces were the Defendant's products being sold at Central Market.



(Declaration of Julian Barsotti at ¶ 11, Exh. 2.) (Central Market Display)

7. The detailed three-dimensional sign at the top and side of the display are direct copies of the CARBONE'S trademark as featured prominently in relation to Carbone's Fine Food and Wine Restaurant, including on Carbone's website, menu, pre-packaged food, and physical location:



(Screenshot from <http://carbonesdallas.com/>, last visited April 5, 2022);



(Carbone's Sunday Dinner Menu, available for download at http://carbonesdallas.com/menus/carbones_sundaydinner.pdf, last visited April 5, 2022);

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