

# SOLICITOR

SEP 15 2008

AO 120 (Rev. 3/04)

TO: Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	U.S. PATENT & TRADEMARK OFFICE REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
--	--

In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Eastern District of New York on the following  Patents or  Trademarks:

DOCKET NO. 1:06-cv-05857-RER	DATE FILED 10/30/2006	U.S. DISTRICT COURT Eastern District of New York
PLAINTIFF Patsy's Italian Restaurant, Inc. et al	DEFENDANT Anthony Banas	<b>FILED</b> IN CLERK'S OFFICE U.S. DISTRICT COURT E.D.N.Y. SEP 10 2008 PM. (A) TIME A.M.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	
1 3009836	11/5/2005	PATSY'S Restaurant
2 3009866	11/5/2005	PATSY'S Restaurant
3 2213574	12/29/1998	I.O.B. Realty, Inc.
4		
5		

A TRUE COPY  
ATTEST  
DATE 9/10/2008  
ROBERT C. HEINEMANN  
CLERK  
DEPUTY CLERK

In the above entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY	<input type="checkbox"/> Amendment	<input type="checkbox"/> Answer	<input type="checkbox"/> Cross Bill	<input type="checkbox"/> Other Pleading
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK			
1					
2					
3					
4					
5					

In the above entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT See the attached Judgment issued by the Honorable Ramon E. Reyes, Jr., United States Magistrate Judge.
--

CLERK <i>Roberth Heinemann</i>	(BY) DEPUTY CLERK	DATE Sept. 10, 2008 9/30/2008
-----------------------------------	-------------------	-------------------------------------

Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director  
Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

169

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

-----X  
PATSY'S ITALIAN RESTAURANT, INC.,  
PATSY'S BRAND, INC.,

Plaintiffs,

- against -

06-CV-0729 (RER)

ANTHONY BANAS d/b/a PATSY'S,  
PATSY'S PIZZERIA,

Defendants.

-----X  
-----X  
PATSY'S ITALIAN RESTAURANT, INC.,

Plaintiff and  
Counterclaim Defendant,

- against -

06-CV-5857 (RER)

ANTHONY BANAS d/b/a PATSY'S and  
PATSY'S PIZZERIA TRATTORIA IMPAZZIRE,  
ALLAN ZYLLER d/b/a PATSY'S and PATSY'S  
PIZZERIA TRATTORIA IMPAZZIRE, AL &  
ANTHONY'S PATSY'S, INC., I.O.B. REALTY,  
INC., and PATSY'S, INC.,

Defendants and  
Counterclaim Plaintiffs.

-----X  
**FINAL JUDGMENT**

**WHEREAS**, Plaintiffs Patsy's Italian Restaurant, Inc. and Patsy's Brand, Inc. (collectively, "Plaintiffs"), filed separate complaints against Defendants Anthony Banas ("Banas") and Anthony & Patsy's, Inc. (collectively, the "Staten Island Defendants"), and Banas, Allan Zyller and Al & Anthony's Patsy's, Inc. (collectively, the "Syosset Defendants"), for trademark infringement, unfair competition and injury to business reputation; and

**WHEREAS**, Patsy's, Inc. and I.O.B. Realty, Inc. (collectively, "I.O.B. Realty") were permitted to intervene in these actions, and assert along with the Staten Island Defendants and the Syosset Defendants (collectively, "Defendants") a counterclaim seeking cancellation of Plaintiffs' trademark registrations; and

**WHEREAS**, after unnecessarily protracted pre-trial proceedings, these consolidated cases were tried to a jury beginning on March 31, 2008; and

**WHEREAS**, on April 10, 2008, the jury having returned a special verdict form containing various findings of fact on the parties' respective claims and counterclaims; and

**WHEREAS**, in response to the parties' post-verdict motions for injunctive relief an Opinion and Order was filed and entered on September 9, 2008, providing for certain injunctive relief against Plaintiffs and Defendants in accordance with the jury's findings of fact;

**NOW, THEREFORE, it is hereby ORDERED, ADJUDGED and DECREED** as follows:

1. The United States Patent and Trademark Office is ordered to cancel trademark registration number 3,009,836 for the stylized mark PATSY'S PR for restaurant services; and
2. The United States Patent and Trademark Office is ordered to cancel trademark registration number 3,009,866 for the unstylized mark PATSY'S for restaurant services not including pizza; and
3. The United States Patent and Trademark Office is ordered *not* to restore trademark registration number 2,213,574 for the mark PATSY'S PIZZERIA for restaurant services (thereby superceding the prior restoration order of August 8, 2007 issued by the Honorable Dora L. Irizarry); and

4. Plaintiffs, their successors, assigns, officers, directors, servants, employees, distributors, customers, representative, agents and attorneys, and all persons in privity or in active concert or participation with them, or any of them, be and they are hereby permanently enjoined and prohibited from using the mark PATSY'S alone in any advertising, signs, menus or anything similarly associated with their restaurant services; and

5. Defendants their successors, assigns, officers, directors, servants, employees, distributors, customers, representative, agents and attorneys, and all persons in privity or in active concert or participation with them, or any of them, be and they are hereby permanently enjoined and prohibited from using the mark PATSY'S alone in any advertising, signs, menus or anything similarly associated with their pizzeria services; and

6. The Syosset Defendants their successors, assigns, officers, directors, servants, employees, distributors, customers, representative, agents and attorneys, and all persons in privity or in active concert or participation with them, or any of them, be and they are hereby permanently enjoined and prohibited from using the words "Trattoria Impazzire" in any advertising, signs, menus, or anything similarly associated with the restaurant at 407 Jericho Turnpike, Syosset, Long Island, New York (the "Syosset Location"); and

7. The Syosset Defendants their successors, assigns, officers, directors, servants, employees, distributors, customers, representative, agents and attorneys, and all persons in privity or in active concert or participation with them, or any of them, be and they are hereby affirmatively commanded and directed to place and maintain a sign in the door of the Syosset

Location reading: "WE ARE NOT AFFILIATED WITH PATSY'S ITALIAN RESTAURANT  
LOCATED AT 236 WEST 56TH STREET, NEW YORK, NY," for not less than three years  
from the date hereof; and

8. That all other claims and counterclaims between the parties are hereby dismissed.

**Dated:** Brooklyn, New York  
September 10, 2008

*Ramon E. Reyes, Jr.*  
**RAMON E. REYES, JR.**  
United States Magistrate Judge