

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

BON APPETIT DANISH, INC., a California Corporation	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 26-2216
v.	)	
	)	JURY DEMAND
REAL APPETIT LLC, a Texas limited liability company, FARID GHULAM, an individual, and TANIA BLANCAS FLORES, an individual,	)	
	)	
Defendants.	)	

COMPLAINT

Plaintiff Bon Appetit Danish, Inc. (“Bon Appetit”), by and through its undersigned attorneys, files this Complaint against Defendants Real Appetit LLC (“Real Appetit”), Farid Ghulam (“Ghulam”), and Tania Blancas Flores (“Flores”) (collectively, “Defendants”), and alleges as follows:

NATURE OF ACTION

1. This is an action for trademark infringement, trade dress infringement, false designation of origin, and unfair competition arising under the Trademark Act of 1946, as amended (the “Lanham Act”), 15 U.S.C. §§ 1051 *et seq.*, and the common law of the State of Texas.

2. Bon Appetit is the owner of United States Federal Trademark Registration No. 1,826,501 for the mark BON APPETIT for “danish, cakes and muffin pastries” in International Class 030, with a first use in commerce date of August 1990. This registration issued on March 15, 1994, remains live and registered, and has been declared incontestable.

3. Defendants have adopted and are using the name and mark REAL APPETIT in connection with baked goods that directly overlap with Bon Appetit’s goods. Defendants have

further adopted packaging and branding that replicates the overall commercial impression of Bon Appetit's distinctive trade dress.

4. Defendants' conduct is likely to cause confusion, mistake, or deception among consumers as to the source, origin, sponsorship, or affiliation of Defendants' products, causing irreparable harm to Bon Appetit's goodwill and trademark rights. Bon Appetit seeks injunctive relief, monetary damages, an accounting of profits, attorneys' fees and costs, and all other relief available under law and equity.

THE PARTIES

5. Plaintiff Bon Appetit Danish, Inc. is a corporation organized and existing under the laws of the State of California, with its principal address at 4525 District Blvd., Vernon, California 90058. Bon Appetit manufactures, distributes, and sells baked goods, including danish, cakes, and muffin pastries, under the BON APPETIT mark throughout the United States.

6. Defendant Real Appetit LLC is a Texas limited liability company, with a registered office address at 11704 N. Lamar Blvd., Apt. 3101, Austin, Texas 78753. Real Appetit also operates through a commercial kitchen facility known as PREP ATX, located at 1300 E. Anderson Lane, Building D, Suite 1016, Austin, Texas 78752.

7. Defendant Farid Ghulam is an individual Texas resident. Ghulam is a managing member and registered agent of Real Appetit LLC. Upon information and belief, Ghulam directed, controlled, and personally participated in the infringing activities alleged herein.

8. Defendant Tania Blancas Flores is an individual Texas resident. Flores is a managing member of Real Appetit LLC. Upon information and belief, Flores directed, controlled, and personally participated in the infringing activities alleged herein.

JURISDICTION AND VENUE

9. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) and (b), as this action arises under the Lanham Act, 15 U.S.C. §§ 1051 et seq. This Court has supplemental jurisdiction over Bon Appetit's state-law claims pursuant to 28 U.S.C. § 1367, as such claims arise out of the same case or controversy as the federal claims.

10. This Court has personal jurisdiction over Defendants because Defendant Real Appetit is a Texas limited liability company with its principal place of business in Austin, Texas. Defendants Ghulam and Flores are residents of Texas and are managing members of Real Appetit. Further, Defendants have committed the acts giving rise to this action within the State of Texas and within this judicial district.

11. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(1) and (2) because Defendants reside in this District and a substantial part of the events or omissions giving rise to the claims occurred in this District. Defendants' registered office is located within the Austin Division of the Western District of Texas.

FACTUAL BACKGROUND

Bon Appetit's Trademark and Trade Dress Rights

12. In the mid-1980s, Bon Appetit began selling fresh pastries to retailers.

13. Bon Appetit has used the BON APPETIT mark in connection with baked goods, including danish, cakes, and muffin pastries, continuously and extensively for over thirty-five years.

14. On March 15, 1994, the United States Patent and Trademark Office ("USPTO") issued United States Federal Trademark Registration No. 1,826,501 for the mark BON APPETIT for "danish, cakes and muffin pastries" in International Class 030. This registration has been

declared incontestable under 15 U.S.C. § 1065.

15. Under 15 U.S.C. § 1065, Bon Appetit's incontestable registration constitutes conclusive evidence of the registrant's exclusive right to use the BON APPETIT mark in commerce in connection with the registered goods.

16. On March 5, 1996, the United States Patent and Trademark Office ("USPTO") issued United States Federal Trademark Registration No. 1,960,572 for the mark BUON APPETITO for "bakery goods" in International Class 030. This registration has been declared incontestable under 15 U.S.C. § 1065.

17. Under 15 U.S.C. § 1065, Bon Appetit's incontestable registration constitutes conclusive evidence of the registrant's exclusive right to use the BUON APPETITO mark in commerce in connection with the registered goods.

18. Bon Appetit has sold hundreds of millions of dollars of goods under the BON APPETIT and BUON APPETITO marks and its distinctive packaging.

19. Bon Appetit sells its BON APPETIT and BUON APPETITO products in over 60,000 retail locations nationwide and in over 7,000 retail locations in Texas.

20. Bon Appetit has spent millions of dollars to promote and distribute its goods through the BON APPETIT and BUON APPETITO marks and the distinctive packaging throughout the United States, including Texas.

21. For more than thirty-five years, Bon Appetit has consistently and continually invested substantial time and resources in marketing its baked goods using the BON APPETIT and BUON APPETITO mark and the distinctive packaging and branding. s

22. As a result of Bon Appetit's longstanding use, federal registration, and continued sale of baked goods under the BON APPETIT and BUON APPETITO marks, consumers

throughout the United States, including Texas, associate the BON APPETIT and BUON APPETITO names and related trade dress with Bon Appetit and its products.

23. Bon Appetit's trade dress (its distinctive packaging) includes, but is not limited to, the distinctive combination and arrangement of its overall packaging appearance, color scheme, layout, product photography, printed label placement on clear wrapping, and brand positioning on its individually packaged baked goods products. Bon Appetit's trade dress is non-functional and has acquired distinctiveness and secondary meaning through decades of continuous use in commerce, both in Texas and throughout the United States. Examples of Bon Appetit's use of the

BON APPETIT mark and distinctive trade dress are pictured below.

Defendants' Infringing Activities



24. On or about December 10, 2024, Defendants formed Real Appetit LLC as a Texas limited liability company.

25. Defendants thereafter adopted and began using the name and mark REAL APPETIT in connection with the manufacture, distribution, offering for sale, sale, advertising, and promotion of baked goods.

26. On December 3, 2025, Real Appetit LLC filed U.S. Trademark Application Serial No. 99,526,689 with the USPTO for the mark REAL APPETIT in International Class 030, covering bakery-related products, including bread, pastry, cake, cupcake, and dessert mixes, and claiming first use in commerce as of December 10, 2024.

27. Defendants' REAL APPETIT mark is confusingly similar to the BON APPETIT mark.

- a. Both marks follow the identical construction of [MODIFIER] + APPETIT.
- b. Both marks are used on the same category of baked goods.
- c. Both marks and the related goods are sold through overlapping channels of trade (gas stations, convenience stores, grocery stores) to the same consumers.
- d. The shared "APPETIT" element is a dominant component of both marks, and the substitution of "REAL" for "BON", which are both short, common modifiers, does not create a materially different commercial impression.

28. In addition to adopting a confusingly similar mark, Defendants have adopted packaging and trade dress for their baked goods that replicates the overall commercial impression of Bon Appetit's distinctive trade dress, including similarities in overall appearance, packaging materials, color scheme, layout, product photography, label placement, and brand positioning.

Examples of Bon Appetit products as compared to Real Appetit products are pictured below.



29. Defendants' selection of both a confusingly similar name and confusingly similar packaging for identical products sold in identical channels of trade (gas stations, convenience stores, grocery stores) amplifies the likelihood of confusion far beyond what either element alone would create. The breadth and precision of the copying reflect a deliberate decision to build Defendants' business on the foundation of Bon Appetit's established identity and goodwill.

30. The similarities go far beyond industry-standard packaging conventions, as numerous other baked goods sold in similar channels of commerce possess significantly different naming conventions and packaging. Examples of the wide variety of other mark and trade dress options are pictured below as compared to Bon Appetit products. The examples below were purchased in convenience stores located in the greater Austin area where Defendants operate.



Pre-Suit Notice and Defendants' Refusal to Comply

31. On May 18, 2026, Bon Appetit's counsel sent a cease-and-desist letter to Defendants demanding that Defendants immediately cease all use of the REAL APPETIT name, mark, trade dress, and branding; abandon U.S. Trademark Application Serial No. 99,526,689; and provide a written accounting of all products sold under the REAL APPETIT name.

32. Upon information and belief, Defendants have not complied with Bon Appetit's demands and continue to use the REAL APPETIT mark and infringing trade dress in commerce.

COUNT I - FEDERAL TRADEMARK INFRINGEMENT (15 U.S.C. § 1114)

33. Bon Appetit incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

34. Bon Appetit is the owner of United States Federal Trademark Registration No. 1,826,501 for the mark BON APPETIT for "danish, cakes and muffin pastries" in International Class 030, which registration is incontestable under 15 U.S.C. § 1065.

35. Bon Appetit is the owner of United States Federal Trademark Registration No. 1,960,572 for the mark BUON APPETITO for "danish, cakes and muffin pastries" in International Class 030, which registration is incontestable under 15 U.S.C. § 1065.

36. Without the consent or authorization of Bon Appetit, Defendants have used and continue to use in commerce the mark REAL APPETIT, which is confusingly similar to Bon Appetit's registered BON APPETIT and BUON APPETITO marks, in connection with baked goods that are identical or closely related to the goods for which Bon Appetit's mark is registered.

37. Defendants' use of the REAL APPETIT mark in connection with baked goods is likely to cause confusion, mistake, or deception among consumers as to the source, origin, sponsorship, or affiliation of Defendants' products with Bon Appetit.

38. Defendants' acts constitute trademark infringement in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

39. Upon information and belief, Defendants' infringement has been willful and deliberate. The totality of Defendants' conduct — adopting a name that is confusingly similar to Bon Appetit, replicating Bon Appetit's distinctive packaging, and targeting the same consumers — makes it clear that Defendants' acts are not inadvertent.

40. As a direct and proximate result of Defendants' acts, Bon Appetit has suffered and will continue to suffer irreparable injury to its goodwill, reputation, and trademark rights, for which Bon Appetit has no adequate remedy at law.

COUNT II - FEDERAL TRADE DRESS INFRINGEMENT (15 U.S.C. § 1125(a))

41. Bon Appetit incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

42. Bon Appetit's trade dress, including the distinctive combination and arrangement of its packaging's overall appearance, color scheme, layout, product photography, printed label placement on clear packaging, and brand positioning, is non-functional and has acquired distinctiveness and secondary meaning through decades of continuous and exclusive use in commerce.

43. Defendants have adopted packaging and trade dress for their REAL APPETIT branded baked goods that are confusingly similar to and replicates the overall commercial impression of Bon Appetit's distinctive trade dress.

44. Defendants' use of trade dress that is confusingly similar to Bon Appetit's trade dress in connection with identical goods sold through identical channels of trade is likely to cause confusion, mistake, or deception among consumers as to the source, origin, sponsorship, or

affiliation of Defendants' products.

45. Defendants' acts constitute trade dress infringement in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

46. Upon information and belief, Defendants' trade dress infringement has been willful and deliberate.

47. As a direct and proximate result of Defendants' acts, Bon Appetit has suffered and will continue to suffer irreparable injury to its goodwill, reputation, and trade dress rights, for which Bon Appetit has no adequate remedy at law.

**COUNT III - FALSE DESIGNATION OF ORIGIN AND
UNFAIR COMPETITION (15 U.S.C. § 1125(a))**

48. Plaintiff incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

49. Defendants' use of the REAL APPETIT mark and trade dress in connection with baked goods constitutes a false designation of origin and a false or misleading description or representation of fact, which is likely to cause confusion, mistake, or deception as to the affiliation, connection, or association of Defendants with Bon Appetit, or as to the origin, sponsorship, or approval of Defendants' goods by Bon Appetit.

50. Defendants' acts constitute false designation of origin and unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A).

51. Upon information and belief, Defendants' conduct has been willful and deliberate.

52. As a direct and proximate result of Defendants' acts, Bon Appetit has suffered and will continue to suffer irreparable injury to its goodwill, reputation, and business, for which Bon Appetit has no adequate remedy at law.

**COUNT IV - COMMON LAW TRADEMARK INFRINGEMENT
AND UNFAIR COMPETITION UNDER TEXAS LAW**

53. Bon Appetit incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

54. The BON APPETIT mark is distinctive, protectable as a trademark, and owned exclusively by Bon Appetit, as evidenced by Bon Appetit's ownership of Trademark Registration No. 1,826,501.

55. The BUON APPETITO mark is distinctive, protectable as a trademark, and owned exclusively by Bon Appetit, as evidenced by Bon Appetit's ownership of Trademark Registration No. 1,960,572.

56. Bon Appetit's packaging has acquired distinctiveness in the State of Texas and throughout the United States and is non-functional, therefore qualifying it as protectable trade dress.

57. With respect to Defendants, Bon Appetit is the senior user of the BON APPETIT and BUON APPETITO marks and their distinctive packaging.

58. Bon Appetit owns all rights, title, and interest in and to the BON APPETIT and BUON APPETITO marks and their distinctive trade dress throughout the United States and the State of Texas.

59. Bon Appetit has continuously used the BON APPETIT and BUON APPETITO marks and their distinctive trade dress for more than thirty-five years in connection with baked goods throughout the United States, including in the State of Texas.

60. Bon Appetit sells baked goods bearing the BON APPETIT and BUON APPETITO marks and distinctive trade dress in over 60,000 retail locations nationwide and in over 7,000 retail locations in Texas.

61. Defendants' REAL APPETIT mark is confusingly similar to the BON APPETIT and BUON APPETITO marks.

62. Defendants' packaging is nearly identical to Bon Appetit's trade dress.

63. Defendants are using the REAL APPETIT mark and packaging that mimics Bon Appetit's trade dress in association with baked goods.

64. The aforesaid acts of Defendants constitute trademark infringement and unfair competition in violation of the common law of the State of Texas. The aforesaid acts of Defendants are likely to cause confusion in the trade as to the source of Defendants' goods and services and are likely to lead the public to mistakenly believe that Defendants are in some way connected with Bon Appetit when they are not.

65. As a direct and proximate result of the unlawful acts described above, Bon Appetit has been damaged, and Defendants have been unjustly enriched, in an amount to be determined at the time of trial.

66. Upon information and belief, as a result of Defendants' acts of trademark infringement and unfair competition, Bon Appetit has lost sales and profits in an amount not yet fully ascertained, has experienced a diversion of trade, and has suffered and will continue to suffer irreparable injury to its business reputation and goodwill. Bon Appetit's remedy at law is not by itself adequate to compensate it for injuries inflicted and threatened by Defendants. Defendants continues to commit such acts and, unless restrained and enjoined by this Court, will continue to do so and continue inflicting irreparable injury upon Bon Appetit.

67. Upon information and belief, Defendants have used and continue to use the infringing REAL APPETIT mark and confusingly similar packaging in connection with baked goods, in bad faith, with full knowledge of Bon Appetit's trademark rights, and with willful,

deliberate intent to trade on Bon Appetit's substantial recognition, reputation, and goodwill and deceive consumers regarding the origin of Defendants' goods by creating the impression of an association between Defendants and Bon Appetit. In view of the willful nature of Defendants' infringement and unfair competition, this is an exceptional case warranting the award of treble, additional, and enhanced damages from Defendants.

**COUNT V - COMMON LAW PALMING OFF & UNFAIR COMPETITION UNDER
TEXAS LAW**

68. Plaintiff incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

69. The acts and conduct of Defendants constitute misappropriation of Bon Appetit's rights in the BON APPETIT and BUON APPETITO marks and their distinctive trade dress, palming off Defendants' goods and services as those of Bon Appetit, and unfair competition, all in violation of the common law of the State of Texas.

70. The BON APPETIT mark is distinctive and owned exclusively by Bon Appetit, as established by Bon Appetit's ownership of Trademark Registration No. 1,826,501.

71. The BUON APPETITO mark is distinctive, protectable as a trademark, and owned exclusively by Bon Appetit, as evidenced by Bon Appetit's ownership of Trademark Registration No. 1,960,572.

72. Bon Appetit's product packaging is non-functional and distinctive, including by virtue of its having acquired secondary meaning.

73. The acts and conduct of Defendants alleged herein are likely to cause confusion among consumers as to the source of Defendants' goods by leading the public to mistakenly believe that Defendants or their products are in some way connected with Bon Appetit.

74. Defendants' acts constitute ongoing misappropriation of the BON APPETIT mark, Bon Appetit's distinctive trade dress, and the business goodwill associated therewith.

75. Defendants are willfully and intentionally palming off or attempting to palm off their goods to the public as those of Bon Appetit.

76. This misappropriation, unfair competition, and palming off by Defendants have caused and will continue to cause serious and irreparable injury to the reputation and goodwill of Bon Appetit, an injury for which there is no adequate legal remedy.

77. As a direct and proximate result of Defendants' misappropriation, unfair competitive acts, and palming off, Bon Appetit has been injured and damaged and is entitled to injunctive relief and to recover actual damages, costs, and reasonable attorneys' fees.

**COUNT VI – DILUTION & INJURY TO BUSINESS REPUTATION UNDER TEXAS
LAW (TEX. BUS. & COM. CODE ANN. § 16.103)**

78. Bon Appetit incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

79. The BON APPETIT and BUON APPETITO marks and Bon Appetit's distinctive trade dress are famous and distinctive because they are widely recognized by the public throughout Texas and the United States as a designation of source.

80. Bon Appetit sells its BON APPETIT and BUON APPETITO products in over 60,000 retail locations nationwide and in over 7,000 retail locations in Texas.

81. The acts and conduct of Defendants alleged herein began after the BON APPETIT and BUON APPETITO marks and Bon Appetit's distinctive trade dress became famous.

82. The acts and conduct of Defendants alleged herein have caused and are likely to continue to cause injury to Bon Appetit's business reputation, and such acts are likely to dilute the distinctive quality of the BON APPETIT and BUON APPETITO marks and Bon Appetit's

distinctive packaging, for all of which Tex. Bus. & Com. Code Ann. § 16.103 prescribes injunctive relief.

83. Upon information and belief, Defendants' products are of a lesser quality than those of Bon Appetit, resulting in dilution of both Bon Appetit's trademarks by tarnishment.

84. Defendants' infringing use of the REAL APPETIT mark and packaging identical to Bon Appetit's distinctive trade dress were done with the willful intent to cause dilution by blurring.

85. As a direct and proximate result of Defendant's actions, Bon Appetit has been injured and damaged and is entitled to the injunctive relief available under Tex. Bus. & Com. Code Ann. § 16.103.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Bon Appetit Danish, Inc. respectfully requests that this Court enter judgment against Defendants Real Appetit LLC, Farid Ghulam, and Tania Blancas Flores, jointly and severally, as follows:

- A. Permanently enjoining Defendants, and all persons acting in concert or participation with them, from: (i) using the mark REAL APPETIT or any other mark confusingly similar to Plaintiff's BON APPETIT mark or BUON APPETITO mark in connection with the manufacture, distribution, offering for sale, sale, advertising, or promotion of baked goods or related products; (ii) using any trade dress that is confusingly similar to Plaintiff's trade dress in connection with baked goods or related products; and (iii) otherwise infringing Plaintiff's trademark and trade dress rights or engaging in unfair competition;
- B. Ordering Defendants to deliver up for destruction all labels, signs, prints, packages, wrappers, receptacles, advertising materials, and all other materials in Defendants' possession, custody, or control bearing the REAL APPETIT mark or any confusingly similar designation or trade dress;
- C. Awarding Plaintiff actual damages sustained as a result of Defendants' infringement, or in the alternative, Defendants' profits attributable to the infringement, pursuant to 15 U.S.C. § 1117(a);
- D. Trebling the award of damages or profits, as appropriate, pursuant to 15 U.S.C. § 1117(a) and (b), in view of Defendants' willful and deliberate infringement;

- E. Awarding Plaintiff its reasonable attorneys' fees and costs of this action pursuant to 15 U.S.C. § 1117(a), as this is an exceptional case;
- F. Ordering Defendants to provide a full accounting of all revenues, profits, and other benefits derived from their use of the REAL APPETIT mark and infringing trade dress;
- G. Awarding Plaintiff pre-judgment and post-judgment interest; and
- H. Awarding Plaintiff such other and further relief as this Court deems just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully submitted,

BON APPETIT DANISH, INC.

By: /s/Abbi White Harris

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