

## insights

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# Delivering a false impression: Postmates faces unfair competition allegations

In a case involving DoorDash for misrepresenting a restaurant on its app, Postmates now faces claims of trademark infringement and unfair competition from Lucky Boy Hamburgers.

Lucky Boy is a mainstay in Pasadena. The restaurant was founded by two brothers from Greece in 1960 and it is in third generation of family leadership. Lucky Boy has been named as a Top 100 Los Angeles restaurant by the LA Times. Its ultimate breakfast burrito is described as a “fan favorite.”

But Lucky Boy’s relationship with Postmates is anything but lucky. In a lawsuit filed on February 24, 2021 in the Central District of California, Lucky Boy filed a complaint against Postmates for the above claims, as well as interference with Lucky Boy’s business. The crux of the dispute is that “Lucky Boy does not want to be affiliated or associated with Defendant.” Lucky Boy alleges Postmates fees are too high and its service is subpar. According to the Complaint, when Lucky Boy refused to sign up for Postmates’ services, Lucky Boy alleges that Postmates continued to use Lucky Boy’s trademarks, but in an effort to divert business away from Lucky Boy. Lucky Boy alleges Postmates continued to use Lucky Boy’s name, but directed customers to other restaurants, and, at times, held out that Lucky Boy was closed when in fact, it was not.

As was outlined in our coverage of *Lona’s Lil Eats LLC v. DoorDash, Inc.*, there is a clear need for those in the restaurant industry to patrol what is said about you by those delivery services - even if a restaurant is not partnering with the services app. In this case, Lucky Boy was patrolling and has made a federal case out of what it saw.

There has been an increase in these types of allegations against delivery services in recent years, including allegations brought by Legal Sea Food, In-N-Out Burgers and Burger Antics. If they have not done so already, restaurants should consider the challenges presented by food delivery apps.

This case is *Lucky Boy Hamburgers v. Postmates Inc.*, Case No. 2:21-cv-01706 (C.D. California).

For any questions about the above case or general intellectual property matters, please reach out to the author or your regular Thompson Coburn contact.

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