

## Owners of famous food product trademarks sue to stop their uses for non-food products

By [William M. Borchard](#)

American Dairy Queen Corporation (“ADQ”) and its franchisees operate about 4,500 restaurants in all states except Vermont, and all of them feature BLIZZARD® **frozen semi-soft ice cream** treats, billions of which allegedly have been sold to consumers since 1946.



W.B. Mason Co., Inc., which delivers office supplies to more than 300,000 offices, says that it began to offer BLIZZARD **paper products** in 2003 and BLIZZARD **spring water** in 2010.



When Mason sought to register marks containing BLIZZARD for spring water, ADQ opposed. Settlement discussions ensued, and Mason claims they were still in progress when ADQ filed an infringement action against Mason in the U.S. District Court for Michigan, where ADQ is located. ADQ’s complaint seeks redress for the use of BLIZZARD for bottled water.

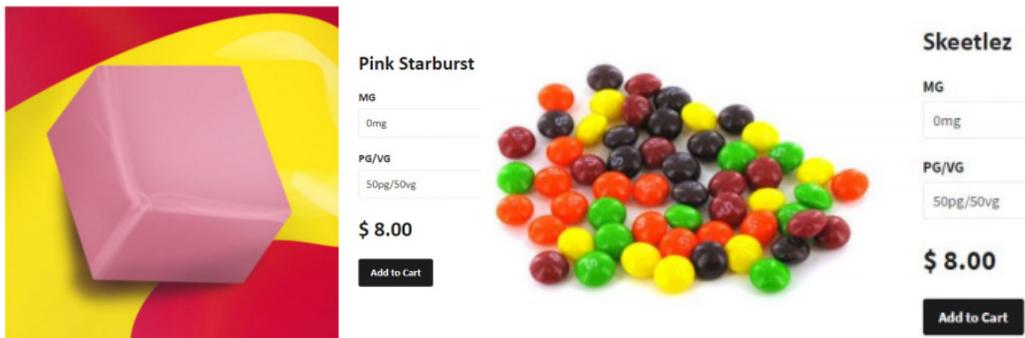
Three days later, Mason filed a declaratory judgment action against ADQ in the U.S. District Court for Massachusetts, where Mason is located, seeking a judgment of non-infringement as to paper and bottled water. The Massachusetts District Court has stayed that proceeding, and the Minnesota District Court is considering a motion by Mason either to dismiss that case on jurisdictional grounds or to transfer it to the Massachusetts District Court.

**American Dairy Queen Corporation v. W.B. Mason Co., Inc.**, Case No. 1:18-cv-00693 (D. Minn. March 12, 2018); **W.B. Mason Co., Inc. v. American Dairy Queen Corporation**, Case No. 1:18-cv-10488 (D. Mass. March 15, 2018).

Compare the foregoing case with an action filed January 1, 2018 by Wm. Wrigley Jr. Company, owner of the registered trademarks STARBURST and SKITTLES candies.



Wrigley sued Get Wrecked Juices LLC for allegedly selling **e-liquid for electronic cigarettes** under the marks STARBURST and SKEETLEZ. Wrigley’s complaint began, “There is a growing concern, shared by the FDA, the Senate and others, that the marketing of e-cigarette materials in chocolate, fruit and/or candy flavors harmfully targets children under 18 years of age.”



Judgment was entered for Wrigley after Get Wrecked failed to appear or defend.

**WM Wrigley Jr. Company v. Get Wrecked Juices LLC**, Case No. 1:18-cv-00642 (N.D. Ill. April 12, 2018).