

NEW JERSEY REAL-TIME NEWS

# Pizza fight may be lost after feds deliver burn to N.J. in trademark case

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New Jersey has lost a significant battle against the owners of a small Florida-based pizza franchise whose owners modeled their advertising logo after the state's Garden State Parkway sign.



Jersey Boardwalk Pizza has been using the logo on the left to advertise its business. The New Jersey Turnpike Authority argues its too similar to the Parkway logo.



Three administrative judges with the United States Patent and Trademark Office ruled Monday that Jersey Boardwalk Pizza can continue to use its logo, which the New Jersey Turnpike Authority argued was confusingly similar to the Parkway logo.

Instead of "Parkway," the logo says "Pizza," along with the name of the company and "subs, cheesesteaks, pasta" added below.

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"The logo is the core of their business," Red Bank attorney Justin Klein said Wednesday. "It's a mark that they've been using in some form or fashion for nearly 10 years."

Jersey Boardwalk Pizza has three locations in Florida - Key Largo, Tavernier and Homestead/Florida City - with a fourth listed as opening soon.

Klein said his clients are proud Jersey natives who created the logo as a shout-out to their home state.

In dismissing the authority's claims, the patent office's governing board noted the similarities, but the restaurant's business is unrelated to the roadway. The case was heard in February and took three months to decide.

In 2015, a judge dismissed a suit filed in U.S. District Court by the state against Jersey Boardwalk Pizza, ruling the Florida business had "minimum contacts" with state residents aside from online sales of branded merchandise.

"We always knew we were right," Paul DiMatteo, CEO of Jersey Boardwalk Pizza and former Brick resident said in a statement. "This was a strain on our business and really

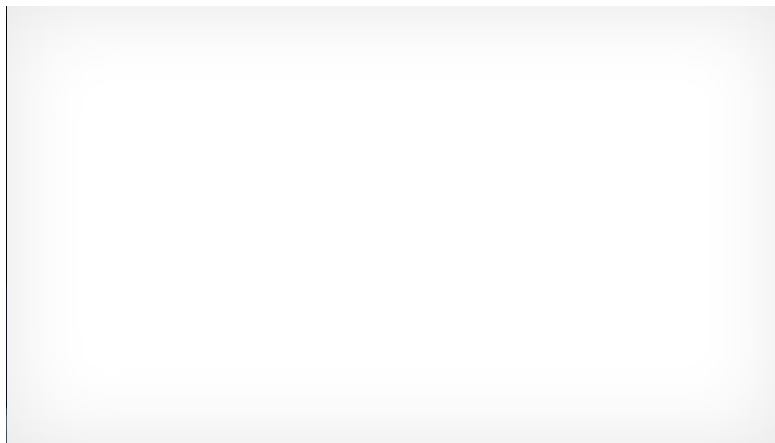


disappointing to have to fight the state you grew up loving. But, we still love Jersey and we are excited about the future of our company."

Klein declined to say how much his clients paid him to fight the case, but surmised New Jersey taxpayers also had been stuck with a huge bill.

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"You're talking lots of lawyers, lots of papers, and lots of time," Klein said.

In deciding for Boardwalk Pizza, the board dismissed a counterclaim by the franchise that the state's trademark registration must be cancelled because the state had no right "to acquire intellectual property rights."

Tom Feeney, spokesman for the turnpike authority, hinted Wednesday the state may continue exploring its legal options.

"We are disappointed and obviously disagree with the board's decision regarding Boardwalk Pizza's pending logo application, and we are exploring our appeal options," Feeney said.



Feeney did not immediately have an estimate of legal fees in the fight against the pizza franchise.

Franchise co-owner Skip Parratt, also a former New Jersey resident, said the company's businesses are located in Tavernier and Homestead, Florida, and the logo has been used since 2011.

"We're all the way in the Florida Keys. It's not like people are going to confuse us," Parratt told The Star-Ledger after the suit was filed.

Klein was unsure why the state doggedly pursued his clients over the parkway trademark.

"You'd have to ask them," he said.

In a statement, Klein commended his clients for "sticking this one out."

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"It was a real battle against a much bigger opponent. The amount of time and resources required for this case was truly unfortunate," Klein said.

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