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Putting Whataburger on the Map May Infringe Patents

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In Texas, Whataburger is more than a fast food restaurant. It's a cultural icon, deeply ingrained in the identity of many Texans. Founded in Corpus Christi, Texas, Whataburger has been a homegrown favorite for generations of Texans, as they value local businesses, entrepreneurship, and a tasty burger just the way they like it.

Amid widespread power outages after Hurricane Beryl, many communities in Texas, particularly in and around Houston, began using the Whataburger app to identify areas with electricity. Because the app shows which Whataburger locations are open and which are closed, the app acted for many as a makeshift power outage map. This resourceful use of Whataburger's app fostered a sense of community among Whataburger's fans and made Whataburger even more beloved.

But in a recent lawsuit filed on November 20, 2024, Nearby Systems LLC allege that Whataburger's app infringed several of their patents. Among these patents was US Pat. No. 9,532,164, which claims in part "a mapping component of [a] first non-browser application configured to invoke [a] second non-browser application on [a] mobile device ... to display a map of the map-able content ... wherein the mapping component transmits the map-able content to an online mapping service configured to communicate with the second non-browser application."

It appears that Nearby Systems has alleged that the "flying W" location indicators used by Whataburger's app have been transmitted to an online mapping service configured to communicate with Whataburger's app. Nearby Systems is seeking injunctive relief as well as monetary damages for the alleged infringement.

Many Whataburger customers have expressed online support for Whataburger on social media, using hashtags like #StandWithWhataburger, and praising their commitment to not using competitors' data. Many others acknowledge that Nearby Systems have raised a legitimate business dispute. However the case unfolds, local pride for Whataburger is easy to find, with or without a map.