



## Smuckers in legal jam over PB&J patent

Government disputes company's claim to unique sandwich style

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It's an American staple, and it can be made about as many ways as there are lunch boxes.

The classic is on white bread, but it can be made on wheat or rye, toasted, with crust or without, with bananas, peanut butter on just one slice, jelly on the other, or, most important, jelly in the middle and peanut butter on both slices.

It turns out that's the way J.M. Smucker makes them, sold as a product called "Uncrustables." The company says it's worth U.S. government protection because of the way it keeps its famous jelly from leaking out.

How do they do it? They surround the jelly completely with peanut butter, then put that on two pieces of bread, cut off the crusts and crimp the edges together.

Smuckers actually has a patent on the peanut butter shield, to stop the jelly from soaking into the bread, unlike a sandwich with peanut butter on just one side, which gets soggy when the jelly gets through.

And taking the crust off turns out to be very big with a certain demographic.

"I like it because it has no crust, and sometimes you can microwave it," says one girl at Richardson D. White Elementary School in Los Angeles.

But Smuckers is in court Wednesday because the government doesn't think the company really has built a better jam trap, and doesn't think the patent should be extended.

Putting the jelly inside the peanut butter, the U.S. Trademark Office now says, would have been obvious for one of ordinary skill.

Some legal scholars says it's not exactly an atomic secret.

"Is it obvious to cut the crust off a peanut butter and jelly sandwich?" asks Christine Haight Farley, a professor at American University in Washington, D.C. "

That's the plain way of stating the legal problem."

But Smuckers say it has invested in the idea and the technology. Marketing experts say the company has a point.

"It's a big business for them," says marketing expert Adam Hanft with Hanft Unlimited, Inc. "It's unique and they're entitled to own it. It's their right."

And so it's on to the food court, with the fate of the patented PB&J is in the hands of federal judges.

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