

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of:

Trademark Application No. 77/472785
Published March 17, 2009

Opposition No. 91189592

OPTIMAL PETS, INC.,
 Opposer,

 v.

NUTRI-VET, LLC,
 Applicant.

STATUS REPORT

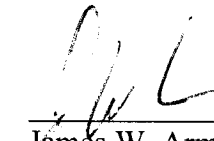
In response to the Board's September 7, 2012 Order requesting information on the status of the civil action which occasioned the suspension of this opposition proceeding, Applicant Nutri-Vet, LLC hereby reports that a Judgment was entered in that civil action in favor of the Applicant and its co-defendant by the United States District Court for the Central District of California on July 2, 2012, resulting in the dismissal of all claims for unfair competition, false designation of origin, and common law trademark infringement alleged by Opposer Optimal Pets, Inc., with prejudice. True and complete copies of the District Court's Judgment, as well as its Memorandum and Order on the Defendants' Renewed Motion for Judgment as a Matter of Law are attached hereto as Exhibits A and B.

Subsequently, on July 31, 2012, Opposer filed a Notice of Appeal from the District Court's Judgment. That appeal remains pending before the United States Court of Appeals for the Ninth Circuit under Case No. 12-56409.

RESPECTFULLY SUBMITTED this 9th day of October, 2012.

SACKS TIERNEY P.A.
4250 N. Drinkwater Blvd., Fourth Floor
Scottsdale, Arizona 85251-3693
Telephone: (480) 425-2628
Facsimile: (480) 425-4928
E-Mail: armstrong@sackstierney.com

By:



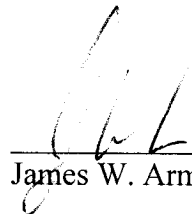
James W. Armstrong
Attorney for Applicant

CERTIFICATE OF EXPRESS MAILING

I hereby certify that the foregoing "Notice of Appearance" is being deposited this 9th day of October, 2012, with the United States Postal Service as "Express Mail Post Office to Addressee," postage prepaid, in an envelope addressed to

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, Virginia 22313-1451

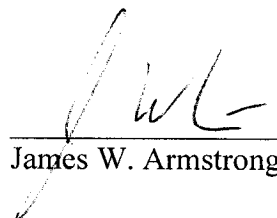
The Express Mail Receipt No. is EQ 804739006 US.


James W. Armstrong

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Notice of Appearance" was served this 9th day of October, 2012, by First Class Mail, postage prepaid, upon counsel for the Opposer, at the following address:

Colin C. Holley, Esq.
Hampton Holley LLP
2101 East Coast Highway, Suite 260
Corona del Mar, California 92625


James W. Armstrong

913335.

JS-6

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

OPTIMAL PETS, INC.

*

Plaintiff

*

vs.

*

EDCV-08-1795 MJG

NUTRI-VET, LLC, et al.

*

Defendants

*

* * * * *

JUDGMENT

This action came on for trial before the Court and a jury, Honorable Marvin J. Garbis, United States District Judge, presiding. After the presentation of evidence, argument, and the Court's charge to the jury, a Special Verdict Form was submitted to the jury for their consideration and a verdict was duly rendered. The Court has, this date, granted Judgment as a Matter of Law to Defendants.

Accordingly:

1. Judgment shall be, and hereby is, entered in favor of Defendants Nutri-Vet, LLC and Vitamin Shoppe Industries, Inc. against Plaintiff Optimal Pets, Inc. dismissing all claims with prejudice etc. with costs.
2. Any and all prior rulings disposing of any claims against any parties are incorporated by reference herein.

3. This Order shall be deemed to be a final judgment within the meaning of Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED, on Friday, June 29, 2012.

/s/
Marvin J. Garbis
United States District Judge

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.