

**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

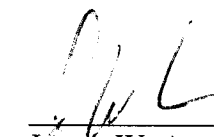
In response to the Board's September 7, 2012 Order requesting information on the status of the civil action which occasioned the suspension of this opposition proceeding, Applicant Nutri-Vet, LLC hereby reports that a Judgment was entered in that civil action in favor of the Applicant and its co-defendant 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.

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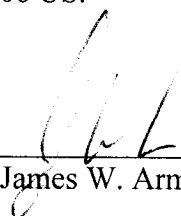
James W. Armstrong
Attorney for Applicant

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

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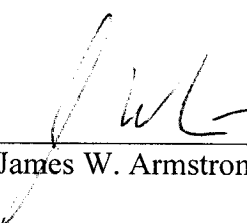


James W. Armstrong

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.
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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

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