

ESTTA Tracking number: **ESTTA851052**

Filing date: **10/10/2017**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Pet-Ag, Inc.
Granted to Date of previous extension	10/18/2017
Address	255 Keyes Avenue Hampshire, IL 60140 UNITED STATES

Attorney information	Robert E. Browne Reed Smith LLP 10 South Wacker Drive, 40th Floor Chicago, IL 60606 UNITED STATES Email: ipdocket-chi@reedsmith.com, rbrowne@reedsmith.com, jnewman@reedsmith.com, mbenson@reedsmith.com Phone: 3122071000
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Applicant Information

Application No	87332870	Publication date	06/20/2017
Opposition Filing Date	10/10/2017	Opposition Period Ends	10/18/2017
Applicant	Vanderlinden, Kim 846 E Avenue Coronado, CA 92118 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. First Use: 2016/07/26 First Use In Commerce: 2016/07/26
All goods and services in the class are opposed, namely: Dietary supplements for animals

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	1769634	Application Date	09/14/1990
Registration Date	05/11/1993	Foreign Priority Date	NONE
Word Mark	DYNE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 005. First use: First Use: 1967/12/31 First Use In Commerce: 1967/12/31 veterinary substances; namely, high calorie liquid dietary supplement for animals, particularly, dogs [, cats,] pigs and horses

Attachments	NOO_DENTADYNE.pdf(17547 bytes)
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Signature	/Robert E. Browne/
Name	Robert E. Browne
Date	10/10/2017

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

In the Matter of:)	
Application Serial No. 87/332,870)	
)	
Published in the <i>Official Gazette</i>)	
on June 20, 2017)	
)	
PET-AG, INC.,)	
)	Mark: DENTADYNE
Opposer,)	
)	
v.)	Opposition No. _____
)	
KIM VANDERLINDEN,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer, Pet-Ag, Inc. (“Opposer”), a corporation organized and existing under the laws of the State of Delaware, with offices at 255 Keyes Ave, Hampshire, IL 60140, believes that it will be damaged by registration of the “DENTADYNE” mark in International Class 5, as shown in Application Serial No. 87/332,870 filed by Applicant, Kim Vanderlinden (“Applicant”), an individual having a mailing address of 846 E. Avenue, Coronado, California 92118, and hereby opposes the same and requests that registration to Applicant be refused.

As grounds for its opposition, Opposer alleges that:

1. Applicant seeks to register the mark “DENTADYNE” for use in connection with dietary supplements for animals. The application asserts the “DENTADYNE” mark is already in use on product labels and as such is filed under 15 U.S.C. § 1051(a).
2. This Notice of Opposition is being timely submitted.

3. Opposer and its predecessor in interest have for many years been in the business of developing, producing, and selling pet nutrition and health products to pet owners, veterinarians, and other professionals caring for animals. Opposer markets and sells such products under various trademarks in the United States and throughout the world.

4. Among such products, Opposer markets and sells dietary supplements for animals in connection with the trademark DYNE, registered under Registration No. 1,769,634 for veterinary substances, namely, high calorie liquid dietary supplement for animals, particularly, dogs, pigs and horses. DYNE dietary supplements for animals have been sold by Opposer's predecessor in interest, Pegasus Laboratories, Inc., since 1967 and Opposer has acquired all rights in this mark from Pegasus.

5. The DYNE registration is valid, subsisting and in full force and effect. Furthermore, Opposer has used this mark in association with its respective designated goods prior to Applicant's first use date of July 26, 2016, and the application filing date of February 12, 2017.

6. The aforesaid registration is incontestable and conclusive evidence of the validity of the registration, of Opposer's ownership thereof, and of Opposer's exclusive right to use such registered mark on the goods set forth in the registration.

7. Through Opposer's extensive and continuous use of the DYNE mark, long before Applicant's first claimed use of its DENTADYNE mark, the public has come to recognize the DYNE mark for animal supplements as being uniquely associated with Opposer. Opposer has developed, at great effort and expense, exceedingly valuable goodwill with respect to the specific mark listed above.

8. Purchasers and potential purchasers, upon seeing the Applicant's "DENTADYNE" mark—which features the distinctive "DYNE" suffix— as used on the same or substantially similar goods, are likely to mistakenly believe that the goods offered thereunder originated with or are connected with, sponsored or associated by, or licensed or approved by Opposer. Thus, the registration and use by Applicant of the "DENTADYNE" mark in connection with its goods, for all channels of trade and all types of prospective purchasers, is likely to cause confusion, mistake, or deception in violation of 15 U.S.C. § 1052(d).

9. Despite Opposer's long-standing prior rights in the DYNE mark for veterinary substances, namely, high calorie liquid dietary supplements for animals, on February 12, 2017, Applicant filed its application to register the "DENTADYNE" mark for "dietary supplements for animals" in International Class 5. Moreover, in light of Opposer's widespread advertising and promotion of its DYNE mark, Applicant's selection and use of the "DENTADYNE" mark, which wholly incorporates Opposer's mark, suggests that Applicant intends to trade off the goodwill and recognition associated with Opposer's trademark.

10. If a registration is issued to Applicant for Applicant's "DENTADYNE" mark, the confusion with Opposer's mark would result in damage and injury to Opposer and the public. Registration of the "DENTADYNE" mark would also give Applicant an unqualified right to wrongfully appropriate Opposer's valuable goodwill and reputation associated with Opposer's mark; to benefit from the likely confusion among purchasers led to believe that Applicant's goods are related in some fashion to Opposer's goods; to harm its goodwill and reputation associated with its mark; and to tarnish Pet-Ag, Inc.'s good name by offering services not subject to Pet-Ag, Inc.'s quality controls.

WHEREFORE, Opposer requests that this Opposition be sustained and Application Serial No. 87/332870 be refused registration.

The requisite filing fee of \$400.00 and any additional fees related to this matter are being charged to a MasterCard credit card concurrently with this filing.

Respectfully submitted,

Pet-Ag, Inc.

Date: October 10, 2017

By: /Robert E. Browne/

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CERTIFICATE OF TRANSMISSION

I hereby certify that the foregoing **NOTICE OF OPPOSITION** is being electronically transmitted via the Electronic System for Trademark Trials and Appeals (“ESTTA”) at <http://estta.uspto.gov/> on the date noted below:

Date: October 10, 2017

By: / Robert E. Browne /
One of the Attorneys for Opposer,
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