

ESTTA Tracking number: **ESTTA1282332**

Filing date: **05/02/2023**

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

Proceeding no.	91283927
Party	Plaintiff GNC Holdings, LLC
Correspondence address	JOHN W. MCILVAINE THE WEBB LAW FIRM 420 FT. DUQUESNE BLVD., SUITE 1200 ONE GATEWAY CENTER PITTSBURGH, PA 15222 UNITED STATES Primary email: trademarks@webblaw.com Secondary email(s): jmcilvaine@webblaw.com, gvadala@webblaw.com, abrooks@webblaw.com 412-471-8815
Submission	Other Motions/Submissions
Filer's name	Anthony W. Brooks
Filer's email	trademarks@webblaw.com, abrooks@webblaw.com, jmcilvaine@webblaw.com, gvadala@webblaw.com
Signature	/Anthony W. Brooks/
Date	05/02/2023
Attachments	Motion to Amend and Dismiss.pdf(126090 bytes)

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

GNC HOLDINGS, LLC,)	Opposition No. 91283927
)	
Opposer,)	Application Serial No. 90/519,973
)	
v.)	Trademark: LIT-BRAND
)	
ALL ABOUT IT, LLC,)	Published: September 13, 2022
)	
Applicant.)	

**CONSENT MOTION TO AMEND THE APPLICATION
AND DISMISS THE OPPOSITION UPON AMENDMENT**

AND NOW comes the Applicant, with the consent of the Opposer, and seeks to amend the description of goods identified in U.S. Trademark App. Ser. No. 90/519,973 by removing the lined-through language from the identification of goods in Class 35 as follows:

On-line retail store services featuring electronic cigarettes, oral vaporizers for smokers, novelty items, ~~dietary supplements~~ and nitrous oxide for industrial use; On-line wholesale store services featuring electronic cigarettes, oral vaporizers for smokers, novelty items, ~~dietary supplements~~ and nitrous oxide for industrial use; Retail store services featuring electronic cigarettes, oral vaporizers for smokers, novelty items, ~~dietary supplements~~ and nitrous oxide for industrial use; Wholesale store services featuring electronic cigarettes, oral vaporizers for smokers, novelty items, ~~dietary supplements~~ and nitrous oxide for industrial use

After amendment, the language of the identification of goods in Class 35 for U.S. Trademark App. Ser. No. 90/519,973 should read:

On-line retail store services featuring electronic cigarettes, oral vaporizers for smokers, novelty items, and nitrous oxide for industrial use; On-line wholesale store services featuring electronic cigarettes, oral vaporizers for smokers, novelty items, and nitrous oxide for industrial use; Retail store services featuring electronic cigarettes, oral vaporizers for smokers, novelty items, and nitrous oxide for industrial use; Wholesale store services featuring electronic cigarettes, oral vaporizers for smokers, novelty items, and nitrous oxide for industrial use

It is respectfully submitted that this amendment does not require republication as the amendment of the description of services narrows, rather than broadens, the scope of the application.

This amendment is made pursuant to an Agreement between Applicant and Opposer, who has consented to this amendment. If the amendment is approved by the Board, Opposer, with Applicant's consent, requests that the opposition be withdrawn without prejudice.

Respectfully submitted,

THE WEBB LAW FIRM

Dated: May 2, 2023

s/ Anthony W. Brooks
John W. McIlvaine (Reg. No. 34,219)
Anthony W. Brooks (Reg. No. 66,476)
One Gateway Center
420 Ft. Duquesne Blvd., Suite 1200
Pittsburgh, PA 15222
412.471.8815
412.471.4094 (fax)
jmcilvaine@webblaw.com
abrooks@webblaw.com
trademarks@webblaw.com
Attorneys for Opposer, GNC Holdings, LLC

AND

THE WEINTRAUB GROUP, P.L.C.

s/ Arnold S. Weintraub
Arnold S. Weintraub
24901 Northwestern Hwy., Suite 311
Southfield, MI 48075
248.809.2005
248.996.8405 (fax)
aweintraub@weintraubgroup.com
ipdocket@weintraubgroup.com
Attorneys for Applicant, All About It, LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of May, 2023, I electronically filed the foregoing **CONSENT MOTION TO AMEND THE APPLICATION AND DISMISS THE OPPOSITION UPON AMENDMENT** with the TTAB using the ESTTA system. A true and correct of same was also served, via email, upon the following:

Arnold S. Weintraub
The Weintraub Group, P.L.C.
24901 Northwestern Hwy., Suite 311
Southfield, MI 48075
ipdocket@weintraubgroup.com
(*Counsel for Applicant*)

THE WEBB LAW FIRM

s/ Anthony W. Brooks
Anthony W. Brooks