

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

AMERIGAS PROPANE, L.P.,	:	
	:	CIVIL ACTION
Plaintiff,	:	
	:	
v.	:	
	:	
OPINION CORP. d/b/a	:	NO. 12-713
PISSEDCONSUMER.COM,	:	
	:	
Defendant.	:	

ORDER

AND NOW, this 19th day of *June*, 2012, upon consideration of Defendant Opinion Corp. d/b/a PissedConsumer.com’s Motion to Dismiss (Docket No. 5), Plaintiff Amerigas Propane, L.P.’s Response in Opposition (Docket No. 7), and Defendant’s Reply Brief (Docket No. 8), it is hereby **ORDERED** as follows:

1. Defendant’s Motion to Dismiss Counts I, II, III, IV, and VII is **GRANTED IN PART** and **DENIED IN PART** as follows:
 - a. Defendant’s Motion to Dismiss on the grounds that Plaintiff fails to allege the use of “AMERIGAS” as a trademark is **DENIED**;
 - b. Defendant’s Motion to Dismiss on the grounds that its nominative use of Plaintiff’s trademark is fair is **DENIED**;
 - c. Defendant’s Motion to Dismiss on the grounds that the Complaint fails to allege likelihood of confusion is **DENIED**;
 - d. Defendant’s Motion to Dismiss on the grounds that the doctrine of initial interest confusion does not apply is **DENIED**;
 - e. Defendant’s Motion to Dismiss any claim premised on a theory of contributory infringement is **GRANTED**, and Plaintiff is precluded from seeking to hold Defendant contributorily liable for the claims made in Counts I, II, III, IV, and VII;
2. Defendant’s Motion to Dismiss Counts IV, V, and VI pursuant to 47 U.S.C. § 230 is **DENIED**.

BY THE COURT:

S/ Ronald L. Buckwalter
RONALD L. BUCKWALTER, S.J.