### IN THE

# Supreme Court of the United States

Anastasia Wullschleger and Geraldine Brewer,

Petitioners,

v.

ROYAL CANIN U.S.A., INC. AND NESTLÉ PURINA PETCARE COMPANY,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit

# BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI

JOHN E. SCHMIDTLEIN BENJAMIN M. GREENBLUM SUSANNA R. ALLEN WILLIAMS & CONNOLLY LLP 725 Twelfth Street, NW Washington, DC 20005 (202) 434-5000

Counsel for Respondent Royal Canin U.S.A., Inc. CHRISTOPHER M. CURRAN
Counsel of Record
J. FRANK HOGUE
WHITE & CASE LLP
701 Thirteenth Street, NW
Washington, DC 20005
(202) 626-3600
ccurran@whitecase.com

BRYAN A. MERRYMAN CATHERINE S. SIMONSEN WHITE & CASE LLP 555 South Flower Street, Suite 2700 Los Angeles, CA 90071 (213) 620-7700

Counsel for Respondent Nestlé Purina PetCare Company

September 14, 2020

WILSON-EPES PRINTING Co., Inc. - (202) 789-0096 - WASHINGTON, D. C. 20002



### **QUESTION PRESENTED**

Whether the Eighth Circuit misapplied this Court's settled jurisprudence in finding federalquestion subject-matter jurisdiction over this action, where the Eighth Circuit found that (i) Petitioners' "dependence on federal law permeates [complaint's] allegations such that [certain of Petitioners' state-law claims] cannot be adjudicated without reliance on and explication of federal law" and (ii) Petitioners' "prayer for relief ... seeks injunctive and declaratory relief that necessarily requires the interpretation and application of federal law."

### RULE 29.6 DISCLOSURE STATEMENT

Nestlé Purina PetCare Company ("Purina") certifies that it is indirectly a wholly owned subsidiary of Nestlé S.A., a Swiss corporation traded publicly on the SIX Swiss Exchange and in the United States in the form of American Depository Receipts. No publicly held company owns 10% or more of Nestlé S.A.'s stock.

Royal Canin U.S.A., Inc. ("Royal Canin") certifies that it is a wholly owned subsidiary of Mars, Inc., a privately held corporate entity that has no parent company. No publicly held company owns 10% or more of Mars, Inc.'s stock.

## TABLE OF CONTENTS

Pa	.ge
QUESTION PRESENTED	i
RULE 29.6 DISCLOSURE STATEMENT	ii
STATEMENT	. 1
REASONS FOR DENYING THE PETITION	. 7
I. The Petition Presents No Circuit Split or Other Compelling Reason for Granting Certiorari	. 7
II. The Eighth Circuit Properly Applied Settled Law to the Facts Alleged in Petitioners' Complaint	10
A. The Eighth Circuit Correctly Held that Petitioners' Claims Necessarily Raise Substantial, Disputed Federal Issues that Are Appropriately Adjudicated in a Federal Forum	10
B. As the Eighth Circuit Found, the Complaint's Prayer for Relief Provides an Independent Basis for Jurisdiction Because It Seeks a Declaration and Injunction Arising Directly Under	
Federal Law	12
CONCLUSION	13



## TABLE OF AUTHORITIES

$\underline{\text{Page}(\mathbf{s})}$	
CASES	
Alden v. Maine, 527 U.S. 706 (1999)	
Caterpillar, Inc. v. Williams, 482 U.S. 386 (1987)	
Cnty. of St. Charles v. Mo. Family Health Council, 107 F.3d 682 (8th Cir. 1997)	
Erie R.R. v. Tompkins, 304 U.S. 64 (1938)	
Grable & Sons Metal Prods., Inc. v.  Darue Eng'g & Mfg.,  545 U.S. 308 (2005)	
Gunn v. Minton, 568 U.S. 251 (2013)	
Merrell Dow Pharms., Inc. v. Thompson,         478 U.S. 804 (1986)	
Mitskovski v. Buffalo & Fort Erie Pub. Bridge Auth., 435 F.3d 127 (2d Cir. 2006)	
CONSTITUTIONAL PROVISIONS	
U.S. Const. art. III. § 2	



# DOCKET

# 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.

