

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

PREMIER PET PRODUCTS, LLC,

Plaintiff,

v.

Civil Action No. 3:09cv293

TRAVELERS PROPERTY CASUALTY
COMPANY OF AMERICA,

Defendant.

MEMORANDUM ORDER

In its January 5, 2010 Memorandum Opinion and Order, the Court determined that Defendant Travelers Property Casualty Company of America owed no duty to defend Plaintiff Premier Pet Products, LLC (“Premier”) from allegations that Premier had infringed a competitor’s trademarks. (Docket Nos. 30, 31.) Prior to issuing this Opinion, at the Court’s request, the parties briefed only the duty to defend. Therefore, the Court’s Opinion did not address the duty to indemnify.

Virginia law holds that “if there is no duty to defend *ab initio*, there can be no duty to indemnify.” *Morrow Corp. v. Harleysville Mut. Ins. Co.*, 101 F. Supp. 2d 422, 426-27 (E.D. Va. 2007). However, because the parties did not have the opportunity to brief the duty to indemnify, the Court will permit the parties ten (10) days to make any statement on the record as to this issue.

Let the Clerk of Court send a copy of this Memorandum Order to all counsel of record.

It is so ORDERED.

/s/
M. Hannah Lauck
United States Magistrate Judge

Richmond, Virginia
Date: 1-5-10