

ESTTA Tracking number: **ESTTA1080844**

Filing date: **09/09/2020**

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	Novus International, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	20 RESEARCH PARK DRIVE ST. CHARLES, MO 63304 UNITED STATES		
Attorney information	LAILA S. WOLFGRAM POL SINELLI PC 100 S. 4TH STREET SUITE 1000 SAINT LOUIS, MO 63102 UNITED STATES Primary Email: uspt@polsinelli.com Secondary Email(s): lwolfgram@polsinelli.com , rendsley@polsinelli.com , docketing@polsinelli.com 314-552-6840		
Docket Number	048968-65383		

Applicant Information

Application No.	88618513	Publication date	08/11/2020
Opposition Filing Date	09/09/2020	Opposition Period Ends	09/10/2020
Applicant	PowerPlant Foods Inc. 5933 NE WIN SIVERS DR., STE. 205 PORTLAND, OR 97220 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Nutritional supplement energy bars; Powdered nutritional supplement drink mix containing protein; nutritional supplement shakes; all of the foregoing non-medicated and intended for human consumption

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1817340	Application Date	06/13/1991
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Registration Date	01/18/1994	Foreign Priority Date	NONE
Word Mark	NOVUS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1991/06/09 First Use In Commerce: 1991/06/09 animal feed supplements and animal feednutritional additives all for livestock		

U.S. Registration No.	1808331	Application Date	06/13/1991
Registration Date	11/30/1993	Foreign Priority Date	NONE
Word Mark	NOVUS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1991/06/09 First Use In Commerce: 1991/06/09 animal feed supplements and animal feednutritional additives, all for livestock		

U.S. Registration No.	1850118	Application Date	09/15/1993
Registration Date	08/16/1994	Foreign Priority Date	NONE
Word Mark	NOVUS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1991/06/26 First Use In Commerce: 1991/06/26 counselling on optimizing nutritional value of animal feed and/or other variables to animal production; furnishing chemical analyses of nutritional value of animal feed; research in the field of animal nutrition and production		

U.S. Registration No.	1885206	Application Date	09/15/1993
Registration Date	03/21/1995	Foreign Priority Date	NONE
Word Mark	NOVUS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1992/11/12 First Use In Commerce: 1992/11/12 computer-assisted inventory management, tracing and control in the field of animal feed ingredients; and computer information storage, retrieval, in the field of animal feed management		

Attachments	Novus PowerPlant NOO Filing Copy.pdf(69802 bytes) Notice of Opposition against NOVUS filed by PowerPlant Foods - Ex. A COR.PDF(38522 bytes)
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	<p>Notice of Opposition of NOVUS by PowerPlant Foods - Ex. A Status.PDF(29990 bytes)</p> <p>Notice of Opposition against NOVUS filed by PowerPlant Foods - Ex. B COR.PDF(21226 bytes)</p> <p>Notice of Opposition of NOVUS by PowerPlant Foods - Ex. B Status.PDF(33579 bytes)</p> <p>Notice of Opposition against NOVUS filed by PowerPlant Foods - Ex. C COR.PDF(24405 bytes)</p> <p>Notice of Opposition of NOVUS by PowerPlant Foods - Ex. C Status.PDF(28038 bytes)</p> <p>Notice of Opposition against NOVUS filed by PowerPlant Foods - Ex. D COR.PDF(22852 bytes)</p> <p>Notice of Opposition of NOVUS by PowerPlant Foods - Ex. D Status.PDF(28045 bytes)</p>
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Signature	/laila s. wolfgang/
Name	Laila S. Wolfgang
Date	09/09/2020

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

In the Matter of Application No. 88/618,513
Filed: September 16, 2019
Published: August 11, 2020
Mark: NOVUS

Novus International, Inc.)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
PowerPlant Foods Inc.)	
)	
Applicant.)	


NOTICE OF OPPOSITION

Novus International, Inc., a corporation organized under the laws of Delaware, having a place of business at 20 Research Park Drive, St. Charles, Missouri 63304 (hereinafter “Novus International” or “Opposer”) believes it will be damaged by the registration of the above-identified mark and hereby opposes same pursuant to the provisions of 15 U.S.C. § 1063.

As grounds for this opposition it is alleged that:

1. Novus International has been and is now engaged in the business of, among other goods and services, making and offering for sale a wide range of nutritional products throughout the United States.
2. Since at least as early as 1991, Novus International adopted and has continuously used the NOVUS trademark on packaging for animal feed nutritional additive and supplements, as well as marketing and other informational material, in various types of media, related to its counselling, analysis, and research in the fields of animal nutrition and production and related services.
3. Novus International owns the following incontestable trademark registrations for

marks that are comprised of or contain its distinctive NOVUS trademark:

Mark	Goods/Services	Reg. No.	Date of Reg.	Priority Date
NOVUS	Animal feed supplements and animal feed nutritional additives all for livestock in International Class 5 Date of first use: June 9, 1991 Date of first use in commerce: June 9, 1991	1,817,340	January 18, 1994	June 13, 1991
	Animal feed supplements and animal feed nutritional additives all for livestock in International Class 5 Date of first use: June 9, 1991 Date of first use in commerce: June 9, 1991	1,808,331	Nov. 30, 1993	June 13, 1991
NOVUS	Counselling on optimizing nutritional value of animal feed and/or other variables to animal production; furnishing chemical analyses of nutritional value of animal feed; research in the field of animal nutrition and production in International Class 42 Date of first use: June 26, 1991 Date of first use in commerce: June 26, 1991	1,850,118	August 16, 1994	Sept. 15, 1993
NOVUS	Computer-assisted inventory management, tracing and control in the field of animal feed ingredients; and computer information storage, retrieval, in the field of animal feed management in International Class 35 Date of first use: Nov. 12, 1992 Date of first use in commerce: Nov. 12, 1992	1,885,206	March 21 1995	Sept. 15, 1993

4. U.S. Registration Nos. 1,817,340; 1,808,331; 1,850,118; and 1,885,206 (“Opposer’s Registrations”) and the common law rights outlined in Paragraph 2, are collectively referred to herein as the “Opposer’s Marks”. The goods and services offered for sale and covered under Opposer’s Marks are referred to as “Opposer’s Products and Services.” Copies of Novus International’s registration certificates and printouts from the U.S. Patent and Trademark Office database showing the current title and status of Opposer’s Registrations are attached hereto as Exhibits A-D. Under 15 U.S. Code § 1115, Opposer’s Registrations are *prima facie* evidence of the validity of the registered marks, of the registrations of the marks, of Novus

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