

ESTTA Tracking number: **ESTTA1083623**

Filing date: **09/22/2020**

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	SYNGENTA PARTICIPATIONS AG
Granted to Date of previous extension	09/23/2020
Address	SCHWARZWALDALLEE 215 BASEL, 4058 SWITZERLAND
Attorney information	JOVAN N. JOVANOVIC THE WATSON IP GROUP, PLC 3133 HIGHLAND DR. SUITE 200 HUDSONVILLE, MI 49426 UNITED STATES Primary Email: jjovanovic@watson-ip.com Secondary Email(s): ssumpo@watson-ip.com , docketing@watson-ip.com , global.trademarks@syngenta.com 6167971000
Docket Number	IPA201633

Applicant Information

Application No.	88664874	Publication date	05/26/2020
Opposition Filing Date	09/22/2020	Opposition Period Ends	09/23/2020
Applicant	NewCoffee GmbH & Co. oHG HOCKENHEIMER STRAÑE 169 KETSCH, 68775 FED REP GERMANY		

Goods/Services Affected by Opposition

Class 021. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: coffee mugs; tea infusers
Class 029. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Coffee creamer; coffee cream in the form of powder; milk
Class 030. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Coffee; coffee pods; coffee beans; flavorings, other than essential oils, for coffee; coffee sold in bags; coffee capsules filled; coffee-based beverages; mixtures of coffee and milk, substitutes formilk; coffee concentrates; artificial coffee; flavoured coffee; instant coffee;decaffeinated coffee; ground coffee; freeze-dried coffee; coffee essences; chocolate flavored coffee; prepared coffee and coffee-based beverages; ground coffee; sug-

ar-coated coffee beans; roasted coffee beans; coffee-based beverage containing milk; coffee substitute, namely, chicory; ice beverages with a coffee base; filters in the form of paper bags filled with coffee; coffee in brewed form; chocolate bark containing ground coffee beans; coffee-based beverages containing ice cream (affogato); mixtures of malt coffee with coffee; mixtures of coffee and chicory; aerated beverages with coffee, cocoa or chocolate base; mixtures of coffee and malt; coffee, teas and cocoa and substitutes therefor; coffee based preparations for making beverages; vegetal preparations for use as coffee substitutes; coffee roasted, powdered, granulated, or in drinks; tea; tea pods; tea cakes; tea bags; tea-based beverages; tea mixtures; theine-free tea sweetened with sweeteners; tea for infusions; tea-based beverages with fruit flavoring; instant tea other than for medicinal purposes; cocoa; cocoa powder; cocoa-based beverages; cocoa mixes; ice beverages with a cocoa base; prepared cocoa and cocoa-based beverages; drinks in powder form containing cocoa; cocoa roasted, powdered, granulated, or in drinks; cocoa for use in making beverages; cocoa based preparations for making beverages; chocolate; bakery goods; pastries; boiled sweets; edible ices; sugar; bonbons made of sugar

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.	3742743	Application Date	02/02/2007
Registration Date	01/26/2010	Foreign Priority Date	NONE
Word Mark	NUCOFFEE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 2007/12/31 First Use In Commerce: 2007/12/31 Coffee, green coffee		

U.S. Registration No.	3859388	Application Date	11/04/2009
Registration Date	10/12/2010	Foreign Priority Date	NONE
Word Mark	NUCOFFEE		
Design Mark			
Description of Mark	The mark consists of the wording "nucoffee" presented in stylized font. The "nu" is presented in black and "coffee" is presented in white. This wording is presented in a green ellipse and is situated on a transparent background.		
Goods/Services	Class 030. First use: First Use: 2007/12/31 First Use In Commerce: 2007/12/31 coffee, green coffee		

Attachments	NoticeOfOppositionIPA201633.pdf(1113448 bytes)
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Signature	/s Jovan N. Jovanovic/
Name	JOVAN N. JOVANOVIC
Date	09/22/2020

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

Syngenta Participations AG

Opposer,

v.

NewCoffee GmbH & Co. oHG

Applicant.

Opposition No. _____

Serial No.: 88/664,874

Mark:



NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. BOX 1451
Alexandria, VA 22313-1451

Dear Sir or Madam:

Syngenta Participations AG (“Opposer”), a Aktiengesellschaft, organized under the laws of Switzerland, having an address of Schwarzwaldale 215, Basel, 4058, Switzerland, believes it will be damaged by registration of U.S. Trademark Application Serial No. 88/664,874

(“Application”) for the mark  , hereinafter referred to as NEW COFFEE

(“Applicant’s Mark”), filed on October 23, 2019, by NewCoffee GmbH & Co. oHG, a Limited Partnership organized under the laws of Germany having an address of Hockenheimer Strasse 169, Ketsch Germany 68775 (“Applicant”) and hereby opposes the same.

As grounds for opposition, it is alleged:

1. By the Application filed on October 23, 2019, Applicant seeks to obtain registration on the Principal Register for the trademark NEW COFFEE for:

Coffee; coffee pods; coffee beans; flavorings, other than essential oils, for coffee; coffee sold in bags; coffee capsules filled; coffee-based beverages; mixtures of coffee and milk, substitutes for milk; coffee concentrates; artificial coffee; flavoured coffee; instant coffee; decaffeinated coffee; ground coffee; freeze-dried coffee; coffee essences; chocolate flavored coffee; prepared coffee and coffee-based beverages; ground coffee; sugar-coated coffee beans; roasted coffee beans; coffee-based beverage containing milk; coffee substitute, namely, chicory; ice beverages with a coffee base; filters in the form of paper bags filled with coffee; coffee in brewed form; chocolate bark containing ground coffee beans; coffee-based beverages containing ice cream (affogato); mixtures of malt coffee with coffee; mixtures of coffee and chicory; aerated beverages with coffee, cocoa or chocolate base; mixtures of coffee and malt; coffee, teas and cocoa and substitutes therefor; coffee based preparations for making beverages; vegetal preparations for use as coffee substitutes; coffee roasted, powdered, granulated, or in drinks; tea; tea pods; tea cakes; tea bags; tea-based beverages; tea mixtures; theine-free tea sweetened with sweeteners; tea for infusions; tea-based beverages with fruit flavoring; instant tea other than for medicinal purposes; cocoa; cocoa powder; cocoa-based beverages; cocoa mixes; ice beverages with a cocoa base; prepared cocoa and cocoa-based beverages; drinks in powder form containing cocoa; cocoa roasted, powdered, granulated, or in drinks; cocoa for use in making beverages; cocoa based preparations for making beverages; chocolate; bakery goods; pastries; boiled sweets; edible ices; sugar; bonbons made of sugar in class 005 (“Applicant’s Goods”).

The Application was filed based on Applicant’s bona fide intent to use the subject mark in commerce.

2. Opposer is a leading global agriculture company that helps improve global food security by enabling millions of farmers to make better use of available resources. Opposer’s goods support a broad array of applications and one particular area of involvement is in association with Coffee and related services.

3. Since at least as early as December 31, 2007, long before Applicant filed the Application, Opposer has provided and continues to provide its goods in connection with

Opposer's registered NUCOFFEE mark ("Opposer's Mark), which is pronounced "New Coffee". Opposer's use of its NUCOFFEE mark is valid and continuous and has not been abandoned.

4. Opposer through substantial use and promotion, has acquired significant goodwill and consumer recognition in its NUCOFFEE mark. Opposer's Mark is strong and well-known.

5. To protect its substantial goodwill and investment in its NUCOFFEE trademark, in addition to any common law rights, Opposer is the owner of multiple Federal Trademark Registrations that include the mark NUCOFFEE. These include, U.S. Registration No. 3,742,743 for the mark NUCOFFEE for Coffee and Green Coffee, which was filed on February 2, 2007 and registered on January 26, 2010, and U.S. Registration No. 3,859,388 for the mark NUCOFFEE and Design for Coffee and Green Coffee as shown below, which was filed on November 4, 2009 and registered on October 12, 2010 ("the NUCOFFEE Registrations"). Opposer first used the NUCOFFEE Registrations almost twelve (12) years before Applicant filed the Application. True and correct copies of the specifics of the NUCOFFEE Registrations obtained from the PTO's TESS databases are attached hereto as Exhibit A and made of record.



6. In addition to the NUCOFFEE Registrations, Opposer currently has a pending application for yet another NUCOFFEE trademark, namely, U.S. Application Serial No. 79/278,492 for NUCOFFEE and Design for coffee, unroasted coffee, and a plethora of services associated therewith, as shown below ("the NUCOFFEE Application"). A copy of the NUCOFFEE Application details are attached hereto as well in Exhibit A and made of record.



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